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Leaders of the Nation in the Constitutional Eras
of American History

By

With Portraits

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BY
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Preface

THE writer has tried to do in this book what he believes needs to be done in some book. In support of this belief, he would direct attention to the following facts: No one else has attempted to establish the relation of those great leaders in government,—Washington and Lincoln. It is true that the shelves in the libraries are groaning under the burden of books with titles bearing one or both of these names. Some of these books are biographical. Others are descriptive of the political conditions in a given era, with the one or the other leader as the dominant personality. Still others relate the leaders through a study of personal traits of character. But, curiously, among all the books, there is not one which attempts to relate these great men through governmental action and theory.

Again, there is a widespread and growing interest in the theories of government. This interest, though world wide, is nowhere more marked than in the United States. At no time in our history as a nation have more people been interested in governmental problems than to-day. This deep-

rooted and growing interest may easily be missed by the casual observer. The French gentleman who came to fight for America in the Revolution, might to-day, as he did in 1777, write home in disgust, that there was more enthusiasm for *La Liberté* in a single café in Paris, than there was in the whole of America. But he would be mistaken now as he was then. Because of this interest, it is reasonable to suppose that the need exists for a study, having as its aim, the tracing of the relation between the nations, two supremely great workers in government.

Further, this need is emphasised, when it is noted, that in the present unusual interest in government, the outstanding fact is the frequency with which the names of Washington and Lincoln are used. The reader has but to glance through the articles written by the publicists of the day to discover how true this is. For there is a conviction which deepens with the years, that the two "Fathers" mastered the ideas that constitute the basis of our national structure.

This suggests another fact, namely, the vast amount of literature which must be examined in order to establish the relation between these two workers in government. Doubtless there are many who, with insistent demands in other

directions, or with the literature largely inaccessible, would be glad to have at their disposal the result of such an examination. The men, who, because of their public relation to the community, are frequently called upon to speak or write on Washington or Lincoln, constitute a considerable number. The writer cherishes the hope, that perhaps he has rendered these public units in the nation's life some service in the pages that follow.

That the literature of the subject bulks large is evident, when it is remembered that the examination must be made in at least three directions. First, a bird's eye view of the landscape of American history must be had. It is as true in history, as in nature, that a sense of unity comes through the large, not the detached view. Second, the stream of constitutional development as it flows across the landscape must be traced, in order to detect that which is distinctly governmental, and at the same time note the changes taking place. Third, an interpretation must be made of the work of each leader, as he stood in his place upon the bank of the stream of constitutional development, with the landscape of the general history as a background.

In making this examination the writer has made the original sources the basis of his study. In some

instances this has not been altogether possible. In others, where the secondary sources have been of unusual merit, he has gladly used them. But in all he has kept in mind the words of the Boston divine, Thomas Prince, who in 1702 said: "I would not take the least iota upon trust, if possible," and, "I cite my vouchers to every passage."

It only remains in sending forth these pages to acknowledge gratefully the assistance rendered. This assistance has come from so many, that detailed mention is impossible. However, the unfailing courtesy of the officials in charge of the great collections of historical material at Columbia University, the University of California, and the New York and Brooklyn Public Libraries, should be noted. The writer desires to mention the scholarly head of the department of history at the University of Chicago, Andrew C. McLaughlin, who in the early stages of this work, called attention to valuable channels of information. To these names, should be added, those of Frank Hugh Foster, and Albert T. Swing, distinguished teachers of history, whose comments have been generous, discriminating, helpful, and always kindly.

R. W. McL.

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Washington and Lincoln

Introduction

THE relation of Washington and Lincoln may be assumed. By some subtle law of historic gravitation they coalesce. Think of one and you think of the other. Begin by measuring one, and you end by measuring the other. However, it is one thing to assume the relation, and another to explain it. A study of the subject shows that the usual method by which the relation is explained is that of comparison. A sort of composite, rough crayon study in black and white is given; the contrasts in black, on a background of similarities in white.

Washington is seen with silver buckles on his shoes, buff trimmings on his coat, a service or dress sword by his side, his hair powdered and clubbed behind, an ample mansion to live in, a mahogany table with Madeira and walnuts, and a coach and four at the door.

Lincoln is seen with deerskin breeches, a coon-skin cap, an axe buried in the tree, a humble cabin in the clearing, later a modest frame house in the village, a linen duster on his back as he sits behind the jogging horse on the prairie road, a grey shawl over his shoulders, and a tall plug hat on his head as he walks down the line of soldiers.

Both are elemental in their greatness, being essentially simple, honest, fearless, and patriotic. But Washington is tall, solemn, haughty, and rich—an aristocrat. Lincoln is gaunt, humorous, genial, and poor—a democrat. Such are the contrasts and similarities.

But such a study in black and white, though substantially accurate, leaves something to be desired, as an explanation of the relation. The tang of history is here. The reader can almost taste the walnuts on the smooth mahogany of Washington's table, and catch the delicious odour of the green wood, as Lincoln opens the tree with his axe. But how comes it that he is reading about these trivial yet interesting things? The answer is, because such things are connected with the work which these men did. History is not primarily a description of men, but a record of men's achievements. And its achievements are not recorded because its men have been described,

but its men are described because their achievements have been recorded.

Draw a picture of Lincoln with the grey shawl, and the tall hat rubbed the wrong way, if you will, but the reader will notice the picture because under the hat there is a brain, and beneath the shawl there is a heart, which working in unison write the Emancipation Proclamation. Describe Washington in the blue uniform, with buff trimmings, and sword by his side, and these will attract, because a great man wears them, as he rides forth to take command of the little army around Boston.

The important thing is the work, and the deeper relations of history are explained by an examination of the work, not by a description of the workman. A favourite dictum in these days is, "biography is history." And the dictum is a true one, if not pushed too far. But it needs to be balanced by another, namely, "history is philosophy." Through the biographical, history becomes picturesque; through the philosophical, history becomes significant. This does not mean that the one aspect of history is distinct from the other.

The student cannot go very far in the biographical study of Washington without coming upon the

philosophical. Neither can he go very far in the philosophical study of Lincoln without coming upon the biographical. It is for him to decide whether the emphasis shall be placed upon one or the other. In this study it is placed upon the philosophical, that is, upon the work, because the aim is to explain the relation of the workers. Bacon's words are accepted: "Be the workmen what they may be, let us speak of the work: that is, the true greatness of kingdoms and estates, and the means thereof."

In seeking to explain the relation of Washington and Lincoln, the student may be guided in the selection of the work for examination, by three facts: First, the work should be commensurate with the greatness of the workmen. Second, the work examined should be sufficiently alike to make possible a comparison. Third, the work should be examined under the law of development.

These men were supremely great in the field of endeavour. History has settled this and the account is closed. They come together on the higher level of exceptional effort, rather than on the lower level of ordinary attainment. Washington as a country gentleman did much painstaking work on his plantation at Mount Vernon. He mounted his horse and rode over his fields. He

checked the invoices from his London agent. Lincoln in early manhood worked in a village store at New Salem. He weighed groceries, and sometimes ran down the road to overtake customers and rectify mistakes. All this makes interesting reading, and goes to make up the sum total of our mental pictures of their personalities. But it has no value in such a study as this, for as work, it is not of enough magnitude to furnish an adequate revelation of the ample powers of the workmen.

Washington was a great general. His retreat across New Jersey was masterly, and students of strategy and tactics study it to-day, as one of the unusual feats of war. Lincoln was an able lawyer, with a brilliant career on the circuit of Illinois, and his method in convincing a jury is of unending interest to legal minds. Lincoln as a lawyer, and Washington as a general would, apart from any other claim, have a secure place in American history. But each would have no relation to the other in our history, because such work is not comparable.

These men lived in different centuries. And the years which separate them are the most transforming known to history, as regards their country. One came from a region which the other never saw. About the time that Washington was girding his

loins for his supreme work in government, Monroe, who later was President, returned from a trip into the West and said:

A great part of the territory is miserably poor, especially that near the lakes Michigan and Erie. And that upon the Mississippi and the Illinois consists of extensive plains which have not had from appearances and will not have a single bush on them for ages.¹

Yet from this region Lincoln came. And when he appeared to do his mighty work in government, this region was the garden spot of the continent. This may be taken as an illustration of the changes which came in area, population, wealth, customs, and laws. The nation of the middle of the nineteenth century was the nation of the last quarter of the eighteenth century and yet it was another nation. It was like a river, which beginning in the hills as a spring, tumbles down the rocks to the plains, there to deepen and widen its channel, until it bears upon its bosom the tangled spars of commerce, and waters upon its banks the growing cities of civilisation. Lincoln worked well down the stream of our history. This fact should not be forgotten.

The work then, should be commensurate with

¹ *Writings of James Monroe*, Hamilton Ed., vol. i., p. 117.

the greatness of the workmen, and sufficiently alike to make possible a comparison. And this raises the question, whether it is possible to find such work, which, when examined, will show the relation?

At the outset the reader will meet with two conditions of great importance. One is, that American history is always in the open. The metaphor of the stream usually pictures the river as losing itself in the marsh lands, only to reappear and flow on. But there is no place in our history for the marshes, with tall grasses and spongy soil. The stream is always in sight, even though the current runs with varying force.

In this respect, American history is peculiar. Statesmen are compelled to speak of the English Constitution as that "subtle organism." Historians lose themselves in the mists, when in working back, they try to trace the origins of European nations. The clouds of mythology are always playing around the mountain tops on which the nations began. But not so with the United States. The ringing of the old liberty bell can almost be heard as its sounds careen on the waves of the Atlantic, and reverberate upon the shore of England. The rooms in which the Declaration of Independence and the Constitu-

tion were written may be visited. Original manuscripts are in existence; debates and controversies are matter of record. And what is true of the beginning is also true of the subsequent history. A writer, commenting upon this says: "If we choose to look we can see the founders of the tradition at work like bees in a glass hive, industrious and ungrudging. From Washington to Lincoln there is no obscurity anywhere."¹ This openness of our history gives the student a decided advantage in his research.

The second condition is, that American history is periodic in its manifestation. The English writer quoted is happy in his simile of bees working in the hive. For bees work in groups. So also the workers in the nation. These groups are seen at work in five periods:

(1) The Parliamentary period of 1765. (2) The Revolutionary period of 1776. (3) The Constitutional period of 1787. (4) The National period of 1830. (5) The Civil-War period of 1861.

The group of 1765, while English, must be considered, in order to understand our history. For this group, with the British Empire a fact, due to the French war, was forced to experiment, and not being successful in its experiment, created

¹ Oliver, *Alexander Hamilton*, p. 172.

the problem which led to the creation of the American nation. The group of 1776, the first in American history, was formed to make effective the protest against the experiments of empire made by the Parliamentary group. The group of 1787, called together because the protest in 1776 had been successful, formulated a plan of government to make permanent the results achieved. The group of 1830, with an expanding nation pressing upon it, was forced to define the government as formulated in 1787, which definitions made amid changed conditions, mark an advance in the theory of government. The group of 1861 was drawn together in order to apply the formulations made in 1787, and definitions given in 1830. Thus the five periods may be characterised by the five words—experiment—protest—formulation—definition—application.

However, while the periods of our history differ as to the form which the work takes, yet they show an underlying likeness. Emerson said of Montaigne's writings, "Cut his pages where you will, and the blood comes." This is true of American history. Open the book where you will, and there is the same big, vital problem of power in government. The men who gathered in the British Parliament following the Treaty of Paris in 1763,

had this problem. The men gathering in the capitol of 1861, after the fall of Sumter, also had this problem. And the men who gathered in the intervening periods of 1776, 1787, and 1830, had the same problem. And the relation of the different groups to the problem, as has been mentioned, varied. With the first group it was problem and experiment. With the last group it was problem and application.

Now, with this thought of American history as an open record and periodic in its manifestation, let us return to our question, which is, whether it is possible to find a work done by Washington and Lincoln, which examined, will reveal the workmen and thus explain the relation?

Certainly an examination of the work done in the periods of 1776 and 1787, will reveal Washington, for, as will be shown later, he was the dominant personality in these two periods. And equally certain is it, that an examination of the work done in 1861, will reveal Lincoln, for he was the commanding leader in this period. And the work in each of these periods was such as to meet the conditions laid down.

So then, to gather up into a few words the purpose and aim of the following pages: The work during five periods in American history will be

examined to find a revelation of two master workmen. In the light of that revelation the work will be compared. This comparison will offer an explanation for the relation of the two great leaders. Washington and Lincoln will stand forth in the supreme task of government.

The Parliamentary Group of 1765

AUGUST 1, 1774, at Williamsburg, George Washington received his credentials as deputy to the First Continental Congress. As if conscious that their deputy was superior, the delegates from the counties of Virginia gave the credentials a touch of distinction. For these credentials alone among those furnished by the colonies contained the expression, "The security and happiness of the British Empire."¹

The delegates as they gathered in the quiet town by the arm of the sea, doubtless cared little for the exact words used. They were concerned rather, with a clear statement of the authority which they wished to confer upon the one chosen to act for them in the following months at Philadelphia. Yet in the use of this expression, as seen in its context, they describe by suggestion the movement which began with the colonial resistance at Boston and ended with the British surrender at Yorktown.

¹ *Journals of Congress*, vol. i., p. 23.

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In support of this assertion, notice the expression as it is placed in juxtaposition with another in the credentials, namely, "the present critical and alarming situation in the continent of North America."¹ The delegates believed that the continent and the empire were related, and that the security of the empire was conditioned upon the happiness of the continent. At this time the security of the whole was threatened, because the prosperity of the colonies was lacking. Here was what writers are pleased to call the centripetal and centrifugal forces in government. The centripetal tendency showed itself in the tightening grip of administration at the centre; the centrifugal tendency, in the growth of autonomy in the colonies. And the problem of this era was how to secure a balance of these forces.

Washington understood this. A few days later, when he mounted his horse at Mt. Vernon and started North, having his credentials in his saddle-bag, he believed that the security and happiness of the British Empire were in jeopardy. He was pre-eminently a sane and cautious man. Never was he known to indulge in exaggerated statement for mere effect. He accepted the wording of his credentials at its face value, and

¹ *Journals of Congress*, vol. i., p. 23.

rode forward, resolved to do his part in the present crisis.

The expression was vague, reflecting the thought of the period, for it was easy enough to speak of "the security and happiness of the British Empire." But what did men mean when they spoke thus? Probably Washington did not know how much this term meant. He believed that his duty consisted in doing something to bring about a readjustment of the forces in the empire. But what this something was he did not know. And this was not strange. The period was one for experiments. The language of men on both sides of the Atlantic was in advance of their thinking. However, there was nothing unusual in this, for the momentous eras in history have never been explicit in verbal statement. Precise statements are the results, not the causes of epochal movements. The huge ship seen in the mist is none the less real because its spars and rigging are not clearly discerned. Men saw the problems of empire with a sense of reality, yet with vagueness.

Washington as late as the following May, on his way to the Second Congress, paused midway on the Potomac River for a brief visit with Jonathan Boucher. And in response to a warning from his friend to the effect that his errand would lead to

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civil war, replied, "that if he ever heard of him joining in any such measures, he had his leave to set him down for everything wicked."¹ Yet within a few months Washington was convinced that such measures were necessary. And in later years Boucher never succeeded in squaring his remark with his action. It was not necessary. Washington in his day was simply typical of its best leadership as he moved in the direction of that which he did not comprehend.

And notice also, that the expression, "the security and happiness of the British Empire," is accurate, even though vague. For a vague statement is sometimes more accurate than precise language. As has been suggested, Virginia alone used this expression. The Massachusetts Bay delegates, perhaps, in playing for position in the struggle, speak of "Great Britain and the American Colonies."² But even granting the fundamental contention of the colonies, the wording was inaccurate. At this time the colonies were theoretically and actually a part of the larger whole. And to press the accuracy further, the colonies were part of the British Empire, not Great Britain. In the two decades preceding, the British flag had

¹ Moses Coit Tyler, *Literary History of American Revolution*, vol. i., p. 460.

² *Journals of Congress*, vol. i., p. 15.

been planted on new stretches in four continents. Cook, roaming in regions hitherto unexplored; Wolfe, scaling the heights at Quebec; Clive, conquering on the plains of Plassey; and indirectly, the growing power of Frederick the Great in Europe had made this possible. And when on February 10, 1763, in the City of Paris the definitive treaty was signed,¹ territorial expansion reached its culmination for the century and Great Britain became, what it has never ceased to be, the mighty British Empire. And it is significant that Washington, moving in the direction of a leadership that involved the creation of another empire, had in his possession credentials given him by a colony, which alone among the colonies of the continent, stated this far-reaching transition from kingdom to empire.

With this glimpse of Washington coming into the foreground, let us move back a decade and consider the Parliamentary group of 1765, as it faced the problem caused by the emergence of empire. The old saying, that next to a defeat the worst thing that can happen is a victory, finds a stupendous illustration in the work of this period. The French had been defeated and the result of victory was a vast territorial expansion. This

¹ Hansard's *Parliamentary Debates*, vol. xv., p. 1291.

expansion called for a change in the colonial policy in order that the results of the victory might be made permanent and effective. In making this change a clash came with the colonies. The outcome of the clash, and the price paid for the victory, was the loss of the American colonies. Washington came to his leadership because of this change in policy. This being true, it will be necessary, in order to understand Washington, to consider briefly the colonial policy of England.

In the three hundred years of England's colonial history, there have been three distinct policies: namely, the commercial, the political, and the reciprocal. The commercial policy began in the seventeenth and continued well into the eighteenth century. Under this policy the colonies were considered as economic possessions for the enrichment of the mother country. They were outlying supply stations for the support of the mercantile interests. About the middle of the eighteenth century the policy became political. The colonies were treated as territorial dependencies to be defended by, and to assist in, the defence of the empire. In the nineteenth century the policy became reciprocal. The colonies were thought of as co-ordinate parts of the empire.

Commerce followed natural channels, and development through self-government was encouraged. The colonies were parts of a whole, each receiving and contributing according to its possibilities.

This threefold distinction cannot be pushed too far. There never was a time during the seventeenth century when the commercial policy prevailed that the political did not also exist. There never was a time during the eighteenth century when the political policy prevailed that the commercial did not also exist. And there never was a time during the nineteenth century that the commercial and political did not survive along with the reciprocal policy. In fact, there are those who claim that the supreme task for English statesmen in the twentieth century is the blending of the commercial, political, and reciprocal into a confederated empire. The word for this century in English colonial policy, is undoubtedly—confederation.

It may be further noted that the changes in England's colonial policy have come less often through gradual development than by radical modification. In the nineteenth century Adam Smith's *Wealth of Nations* exerted such an influence upon the public mind as to effect a radical modification, which amounted to a practical

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abandonment of the colonial traditions.¹ In the eighteenth century, the change was less pronounced in its economic aspect, but none the less radical, as it involved a break with certain theories of government.

As has been suggested, the English ministry believed that the colonial policy should be adjusted to meet the changed conditions due to the emergence of empire. This meant an extension of the system of imperial control, which required a strengthening of the military defence in the distant parts, and a reorganisation of the fiscal system for the support of the defence thus established. To accomplish this reorganisation, three methods were in turn experimented with in the American colonies during the period beginning with 1763.

The first method suggested, placed the entire responsibility for the military defence both as to money and men, upon the colonies in question. In 1753, the English Board of Trade advised the calling of a conference of the colonies to consider this method. In the following year, nine colonies were represented in a conference at Albany. The committee appointed at this conference to prepare a plan, went beyond the advice of the English

¹ Published in 1776, but did not begin to work on the English political mind until later. Thus as an influence it is placed in the 19th century.

Board and reported a scheme of organisation which called for a consideration of the civil as well as military affairs. A governor-general was to be appointed and supported by the Crown. A grand council was to be elected by the assemblies of the colonies, having authority to determine the number of men needed and the amount of money required for their support, subject always to the veto of the home government. It is an open question whether the English ministry would have approved of this plan. However, it was never offered for their approval, as the colonies, to whom it was first submitted, rejected it.¹

The second method was that of requisition. By this means the home government, acting under advice of the provincial governors, determined the number of men and amount of money needed for military defence, and then called upon the assemblies in the colonies to provide the same. The method was an old one. Its success, however, in the past had not been uniform. Some colonies had more than met the requisition and others had less than met it. In the judgment of the home government, it was not considered an adequate solution, and it was used only in the years follow-

¹ *The Writings of Benjamin Franklin*, Smythe Ed., vol. iii., pp. 197-226.

ing the failure of the Albany plan for want of a better one. Doubtless the leaders in England were influenced in their adverse opinion by the decided tendency in the direction of centralisation. The method was opposed to any program looking to an extension of imperial control. The ministry was not easy in the thought, that its plans for unifying the empire were conditioned upon the votes of crude legislators in the wilds of the New World. And it must be said that a study of the requisition system during the eighteenth century, indicates that the ministry was not far wrong in its lack of confidence.

The third method tried was that of taxation. The soldiers had been stationed in the colonies and must be supported. The Parliamentary leaders argued as follows: The colonies will not agree upon a plan of union for their own military defence. The requisition method has not been a success. The long and expensive war with France was carried on in part for the defence of the colonies. The home government has incurred an enormous debt, and the debt of the colonies, by comparison, is small. England with eight million people has a debt of seven hundred million dollars while the colonies with two million people has only four millions debt. The ten thousand soldiers

now stationed in the colonies add commercially to their wealth and much to their security. Since only a portion, perhaps less than one half of the expense, will fall upon the colonies, the method of taxation, under the circumstances, is necessary, wise, and just. This was the argument advanced.

However, there was something to be said by the colonies. They knew that through the trade regulations, made to favour the British merchants, they were sending about two million dollars annually across the water. This they considered as an indirect tax, and knew it to be about double the amount required for the maintenance of military defence. Again, the colonies did not feel the pressing need of military defence, and suspected that the ministry was more interested in extending imperial control from the centre, than in strengthening the military defence on the circumference.

There was still another objection, felt rather than expressed by the colonies, namely, the absence of the sense of dependence implied in the plans for military defence. The treaty of 1763, had changed the relation of the colonies to the home government. And in changing this, the political centre of gravity of the empire was shifted. An examination of the correspondence and discussions

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during the negotiations leading up to the making of the treaty, show that the English leaders anticipated this objection.

The fact is, the leaders in dictating terms in the treaty faced a dilemma. If they accepted Guadaloupe and allowed France to remain on the continent, then the frontiers of the empire in America were in constant danger. If they demanded that France withdraw from the continent, then the colonies, no longer fearing invasion, would lose their sense of dependence upon the mother country.¹

But the time had come to act. The soldiers were garrisoned in the colonies and funds for their maintenance must be forthcoming. The English merchant class was complaining loudly of the increase in taxes. So in 1764, the Sugar Bill, and the next year the Stamp Act, were introduced by the ministry and passed by large majorities. Neither bill attracted any attention in England, yet the enactment into law of these measures marks the radical change in England's colonial policy by which the emphasis was shifted from the commercial to the political, and a situation created that led to the loss of the American colonies.²

¹ Beers, *British Colonial Policy, 1754-1765*, pp. 142-159.

² The preamble to the Sugar Bill read: "Whereas it is just and necessary that a revenue be raised in your Majesty's said

Curiously enough, the Sugar Bill awakened no interest in the colonies, but the Stamp Act at once created intense excitement, leading to open resistance, which in turn reacted upon England, and precipitated one of the greatest debates in Parliament. Suddenly it dawned upon the leaders that in changing the colonial policy they had raised the fundamental questions of constitutional government. In the debate, one of the great statesmen said: "America if she fell, would fall like the strong man; she would embrace the pillars of State, and pull down the Constitution along with her."¹

This is very strong language, and the question arises, how could a couple of legislative enactments, having to do with the duty on molasses and sticking stamps on commercial paper and almanacs, lead to a debate of such magnitude? Let us consider the question.

In January, 1766, the new Ministry introduced in Parliament a resolution calling for the repeal of the Stamp Act, passed in the preceding year. The reason given for advocating the repeal was that reports had been received indicating such

dominions in America, for defraying the expenses of defending, protecting, and securing the same." 4 George III., chapter 15.

¹ *British Orations*; Adams Ed., vol. i., p. 117.

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opposition in the colonies that the effective enforcement of the law was impossible. But along with the resolution for repeal was a Declaratory Act, asserting the right to impose the tax and saying that Parliament, "had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America subjects of the Crown of Great Britain, in all cases whatsoever."¹ That is, the resolution for repeal and the Declaratory Act, taken together, meant that the government intended actually to retreat from its position, but theoretically to maintain it. This dual situation opened the debate, which continued in one form or another for ten years, engaging the efforts of the ablest group of statesmen ever gathered at one time in the English Parliament.

In support of this statement some names have but to be mentioned. There was the elder Pitt, to whom Frederick the Great referred when he said: "England has taken long to produce a great man, but here is one at last."² He was soon to lay aside the rôle of the "Great Commoner," and, moving backward into the future, become Lord

¹ Hansard's *Parliamentary Debates*, vol. xvi., p. 161.

² Carlyle's *Frederick the Great*, Centennial Ed., vol. vi, p. 263.

Chatham. Opposed to him was the profound Murray, at this time Lord Mansfield, whose name will linger longest in history, because of his decision in the famous Somerset case. In the same branch of Parliament was Lord Camden, also masterful in jurisprudence, but who, unlike Mansfield, had a breadth of interest that equalled his depth of learning. Along with this trio cast in massive mould, was Pownall, who had what the others lacked, a practical experience in colonial affairs, and whose position in the light of his experience in America was conciliatory. Here also was Grenville, the author of the Stamp Act, who, while in power was charged with doing what his predecessors never cared to do, namely, read the American despatches.¹ Holding an under position, yet at this time the sensation of the political clubs of London, was the brilliant Charles Townshend, who, in the following year became the author of another act, and whose career was as meteoric as his mind was brilliant. In comparative obscurity, though soon to be known on both sides of the Atlantic, was Lord North, the amiable, faithful, and unswerving mouthpiece of the King. And finally the young Irishman, Edmund Burke,

¹ Lecky, *History of England in Eighteenth Century*, vol. iv, p. 50.

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not yet a member of Parliament, but a constant visitor, whose mind was "Asiatic," and who was destined to take a most conspicuous place as the philosophic statesman of the period. These were the leaders in the Parliamentary group.

What was the question that these leaders discussed, which if answered as Pitt feared it might be answered, would mean the "pulling down of the pillars of State?" The answer is, the question involved was none other than that of *power*—a question at once the most fundamental and disturbing in constitutional government, whether that of a monarchy or democracy.

As Guizot, writing in the next century said:

What is the source of sovereign power and what is its limit? Whence does it come and where does it stop? In the answer to this question is involved the real principle of government; for it is the principle, whose influence direct or indirect, latent or obvious gives to societies their tendency and their fate.¹

In this era of experiment, the Parliamentary leaders, striving to adjust the colonial policy to changed conditions of empire, had unintentionally come upon the mighty question.

As this question suddenly loomed big before them, four problems appeared; or rather, four

¹ Guizot, *History of Representative Government in Europe*, p. 57.

phases of this one question were seen; for big problems are like rare jewels, flashing varied lights when seen from different angles.

First, granting the existence of power in government, where in the creation of empire, under a constitution, is this power lodged? Is the power absolute at the centre for the extension of imperial control? Or is the power lodged at the centre modified by the power lodged at the circumference? And if there is power other than at the centre, how much?

This question of the lodgment of power was not new in English history, although it appeared at this time under new conditions. The Irish House of Lords protested against a reversal, by the English House of Lords, of one of its judgments on appeal. And the English Parliament passed an Act in 1719, depriving the Irish House of any appellate jurisdiction, declaring that the English Parliament "had, hath, and of right ought to have full power and authority to make laws and statutes of sufficient power and validity to bind the people of Ireland."¹ Here was a definite statement of absolute power lodged in the government at the centre.

Strange as it may seem to-day, this historic

¹ 6 George I., chapter v.

precedent was acknowledged by all members of the Parliamentary group in 1766. They agreed that the legislative power of Parliament was absolute. But they did not agree as to what was legislation.

In this respect the debate marked a departure in English history. For the first time the distinction was made between external and internal taxation. The Sugar Bill was external taxation. The Stamp Act was internal taxation. But some said taxation that had to do with external commerce was not properly taxation but legislation, even though one result might be the securing of revenue. Its underlying purpose was the regulation of commerce. Internal taxation was not properly legislation, its purpose being to raise revenue. Others and the majority, said, taxation whether external or internal was legislation. Parliament, said those who made the distinction, is supreme in legislation but not in taxation. Parliament, said those who denied the distinction, is supreme in all taxation because it is legislation.

Pitt said:

It is my opinion that this kingdom has no right to lay a tax upon the colonies. . . . Taxation is no part of the governing or legislative power. The distinction between legislation and taxation is essen-

tial to liberty. The Commons of America, represented in their several assemblies, have ever been in the possession of the exercise of this, their constitutional right of giving and granting their own money. They would have been slaves if they had not enjoyed it. At the same time, this kingdom as the supreme governing and legislative power, has always bound the colonies by her laws, by her regulations and restrictions in trade, in navigation, in manufactures, in everything except that of taking money out of their pockets without their consent. Here I would draw the line.¹

Grenville could not find this distinction. He said:

I cannot understand the difference between external and internal taxes. They are the same in effect and differ only in name. That this kingdom has the sovereign, the supreme legislative power over America is granted; it cannot be denied; and taxation is a part of that sovereign power. It is one branch of the legislation.²

In this Grenville was supported by Lord Mansfield who said:

I cannot see a real difference in this distinction; for I hold it to be true, that a tax laid on any place is like a pebble falling into and making a circle in a lake, till one circle produces and gives motion to another, and the whole circumference is agitated from the

¹ *British Orations*, vol. i., pp. 102, 105.

² *Ibid.*, p. 106.

centre. For nothing can be more clear than that a tax of ten or twenty per cent. laid upon tobacco either in the ports of Virginia or London, is a duty laid upon the inland plantations of Virginia, a hundred miles from the sea, wheresoever the tobacco grows.¹

And the reasoning of Mansfield was sound. Pitt rested his argument upon the supposed distinction in parliamentary procedure. As he says: "The taxes are a voluntary gift and grant of the Commons alone. In legislation the three estates of the realm are alike concerned; but the concurrence of the peers and the crown to a tax is only necessary to clothe it with the form of law."²

But on a question so momentous, any argument that is based on mere parliamentary procedure carries its own refutation. The ministry was on solid ground. A tax was a tax whether laid on foreign or domestic commerce, and the act which authorised it was legislation. The colonial leaders saw this, although they acquiesced in the tax when laid in the guise of trade regulation, as a child will take its medicine if coated with sugar.

This led to a second question,—whence is the power lodged in government derived? The answer given was that the power is derived from the people as represented. This answer seemed

¹ *British Orations*, vol. i., p. 163.

² *Ibid.*, p. 103.

simple and conclusive. However, it is well to note the exact wording. The answer was not, the power is derived from the people, but from the people *as represented*.

But what was representation? They all agreed that under the constitution, the government should be representative. But how much of representation by the people was necessary to make the government representative, was the question. The student cannot avoid the impression that the statesmen of this period either quibbled in the use of words, or utterly lacked imagination, in their interpretation of the situation.

As in the discussion on the lodgment of power, terms came into use that now have no meaning, so in the discussion on the source of power. They talked about virtual and actual representation. Some said, that according to the theory of virtual representation, all parts of the empire were represented. Others said, that inasmuch as the supposed representation was not actual, it was not real. From this they argued that as parts of the empire were not represented, it was unconstitutional to tax them. Lord Camden said:

I will maintain to the last hour, taxation and representation are inseparable. This position is founded on the law of nature. It is more, it is in

itself an eternal law of nature. For whatever is a man's own is absolutely his own. No man has a right to take it from him without his own consent either expressed by himself or his own representation.¹

Mansfield met this emphatic assertion by insisting that virtual representation was in a legal sense actual representation and, therefore, Parliament in laying taxes upon the colonies was acting within the limits of the constitution. He said:

There can be no doubt, but that the inhabitants of the colonies are as much represented in Parliament, as the greatest part of the people of England are represented; among nine millions of whom there are eight who have no votes in Parliament. To what purpose, then, are arguments drawn from a distinction in which there is no real difference—of a virtual and actual representation? A member of Parliament chosen for any borough, represents not only the constituents and inhabitants of that particular place but he represents the inhabitants of every other borough in Great Britain; he represents the City of London and all the other commons of this land, and the inhabitants of all the colonies and dominions of Great Britain, and is, in duty and conscience bound to take care of their interests.²

Pitt ridiculed this position by saying:

There is an idea in some that the colonies are virtually represented in the House. I would fain know

¹ *British Orations*, vol. i., p. 118.

² *Ibid.*, p. 161.

by whom an American is represented here. Is he represented by any knight of the shire, in any county in this kingdom?—The idea of a virtual representation in America is the most contemptible idea that ever entered into the head of a man. It does not deserve a serious refutation.¹

When Pitt spoke thus, he held in his hand a copy of Dulany's masterly argument, in which the American, viewing the debate at a distance, said: "The theory of virtual representation is a mere cobweb spread to catch the unwary and entangle the weak."² And surely Pitt and Camden had the stronger end of the argument. Mansfield's argument might be legally sound. But the fundamental questions that concern the welfare of the people are not settled by spinning legal cobwebs. However, the English government thought so, and adopted Mansfield's position.

And now came a third question, how should the power thus derived and lodged be expressed? There were three positions taken. The first was, that Parliament had the right and should exercise it. This was the contention of Mansfield and Grenville. The second was, that Parliament had not the right, to the extent of taxing the colonies.

¹ *British Orations.*, p. 104.

² Moses Coit Tyler, *Literary History of American Revolution*, vol. i., p. 104.

Pitt and Camden took this position. The third was, that Parliament had the right, but under these conditions should not use it. Pownall and Burke best represented this position. Pownall said: "Let the matter of right rest upon the Declaratory Law, and say no more about it. Do nothing which may bring into discussion questions of right which must become mere articles of faith."¹

This was the position which the English ministry finally took after the failure of its experiments. That is, it asserted the right, never receding from this position, of taxing the colonies, but doubted the expediency. However, through an undue emphasis upon right, and a grudging acceptance of expediency, it created a situation described by Burke when he said:

Everything administered as remedy to the public complaint, if it did not produce, was followed by a heightening of the distemper; until by a variety of experiments, that important country has been brought into her present situation—a situation which I will not miscall, which I dare not name, which I scarcely know how to comprehend in the terms of any description.²

Attempting to handle the situation in the spirit of compromise, and bungling in its attempt, the

¹ Hansard's, *Debates*, vol. xvi., p. 506.

² *Ibid.*, vol. xviii., p. 480.

government was compelled to resort to force. For compromise is a dangerous expedient unless used with skill. And the conclusion is inevitable that the skill was lacking.

This lack of skill was revealed in three courses of action. First, the Declaratory Act of 1766, following the repeal of the Stamp Act, and asserting the right to lay the tax. Second, the repeal of the Townshend Acts in 1770, with the retention of the duty on tea in order to maintain the right; for as Lord North said, "the properest time to exert our right of taxation is when the right is refused."¹ Third, the repression acts of 1774, which included the closing of the Port of Boston, the remodelling of the Charter of Massachusetts, and the giving of authority to the governors to send those indicted for certain crimes, together with the witnesses, to England for trial.

As the student of the period pictures the scene in the House of Commons in 1775, with Edmund Burke delivering his magnificent speech on Conciliation, he wonders whether the listeners really understand his language. For it was in this speech, with the commoners in their seats, and probably the peers in attendance, that he said: "The question with me is not whether you have a

¹ Hansard's *Debates*, vol. xvi., p. 854.

right to render your people miserable, but whether it is not your interest to make them happy. It is not what a lawyer tells me I may do, but what humanity, reason, and justice tell me I ought to do."¹ That the spirit of the great orator's language had no meaning for those in power, is evident when it is remembered that at the conclusion of his speech, Burke offered the first of six resolutions on conciliation, only to have it lost by the overwhelming vote of 78 to 240.²

Compromise in its noble sense, at this period was a lost art. And following this speech came force, first on the green at Lexington, then on the hill at Charlestown, and finally on a hundred battlefields in the colonies. The answer to the question as to the expression of power was, through compromise if possible, by force when necessary. But the use of one, and the execution of the other were defective.

This led to a fourth question,—what was the abuse of power? Of course, the ministry would have said there was no abuse of power. But with such master minds in Parliament as Pitt, Camden, Burke, Mansfield, and Pownall, how came it that the expression of power was so imperfect? There can be but one answer, namely, George the Third.

¹ Hansard's *Debates*, vol. xviii., p. 506.

² *Ibid.*, p. 541.

It is not necessary to read the fiery denunciations of the American patriots in order to reach this conclusion. Lecky, who certainly cannot be accused of any prejudice for the American cause, sums up his study of this period by saying of the King: "He spent a long life in obstinately resisting measures which are now almost universally admitted to have been good, and in supporting measures which are as universally admitted to have been bad."¹ Thackeray says: "Our chief troubles began when we got a king who gloried in the name of Britain, and being born in the country, proposed to rule it."² David Hume in one of his last letters, prophesied that, if the Court carried the day in America the English constitution would infallibly perish.³

The evidence is unmistakable, that George the Third increasingly shaped the policy of the government, from the overthrow of Pitt in 1763, until the colonies were lost with the signing of the treaty in 1783. At the time of his coronation his mother remarked, "George, be king."⁴ He accepted the advice, and proceeded to rule not through

¹ Lecky, *History of England in Eighteenth Century*, vol. iii., p. 171.

² Thackeray, *Four Georges*, p. 39.

³ Trevelyan, *American Revolution*, vol. ii., part 2, p. 156.

⁴ Lecky, *History of England in Eighteenth Century*, vol. iii., p. 168.

the judgment of his ministers, but by using his ministers for the expression of his own judgment.

There are, however, some things to be said in favour of the King. One is, that at this time every throne in Europe rested upon the conception of absolute power residing in the sovereign. Another is, that the tendency in England for half a century had been in the direction of a centralised power. This tendency was seen first in the enormous influence wielded by the Whig families, an influence against democracy and in favour of aristocracy. Then it was seen in the breaking down of the Whigs, and the return to power of the Tories. With the return of the Tory party came the old doctrine, that the King ruled not under the limitation of the constitution as defined by Parliament, but by divine right. And as if to encourage the King in his thirst for power, Blackstone claimed for him this right when he said: "The King of England is not only the chief, but properly the sole magistrate of the nation, all others acting by commission from and in due subordination to him."¹

Perhaps the great jurist intended such language to be a theoretical description of an ideal condition, but the King accepted the words literally.

¹ Lecky, *History of England in Eighteenth Century*, vol. iii., p. 174.

Such advice was dangerous for a king of the type of George the Third, for possessing more will-power than mental acumen, he was ever ready to insist upon his rights. He also possessed that most dangerous combination, of being corrupt in public life, while above reproach in private life. Through his willingness to use unworthy means for what he held to be the public good, he assembled a large following in Parliament. For example, it is said that in 1770 there were 192 members of the House of Commons, who also held positions under the government at the disposal of the King.¹

It is such a fact as this, together with his known interference with legislation, which gives warrant to the statement, that George the Third was the immediate cause of the American Revolution. It is in the light of such conditions that the meaning of Pitt's remark is made clear when he said he would return to St. James if he could take the Constitution with him. The King was unwilling. He was not a tyrant, as many across the sea supposed, nor was he a selfish ruler, bent upon advancing his own interests at the expense of the people. Viewed in the long stretch of English history, he stands forth as a sovereign, who,

¹ Lecky, *History of England in Eighteenth Century*, vol. iii., p.369.

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believing himself superior to Parliament, resisted constitutional development. He was like the huge rock in a stream against which the current breaks, and in breaking forms a counter current. In this counter current the colonies were swept away, though in the stronger current, constitutional development was to move forward to the greater British Empire of to-day.

To summarise then the movement of the period. It began with the emergence of empire as seen in the treaty of 1763. This called for an extension of the system of imperial control, which included a strengthening of the military defence in distant parts. This meant a shift of emphasis in the colonial policy from the commercial to the political. In making this shift, the mighty question of power in government suddenly came into view, bringing with it the consideration of the lodgment, source, expression, and abuse of power. The answers given were such as to add significance to Turgot's remark: "Wise and happy will be that nation the first to bend its policy to the new circumstances, to see in its colonies only allied provinces, and no longer subject to the mother-country."¹

¹ Stephens, *Life and Writings of Turgot*, p. 322.

The Revolutionary Group of 1776

IN one of the big, buff-coloured volumes of the Library of Congress, entitled, *Journals of the Continental Congress*, is the following entry, under date of August 2, 1776: "The declaration of independence being engrossed and compared at the table was signed."¹ This entry constitutes the period at the end of the legislative sentence, formed by the grouping of the preceding entries; and which entries thus grouped, spell out the independence of the colonies. The formal statement is:

We, therefore, the Representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the World, for the rectitude of our intentions, Do, in the Name, and by the Authority of the good People of these Colonies, solemnly publish and declare that these united Colonies are, and of right ought to be, Free and Independent States.

If the reports which have been handed down are reliable, the delegates as they gathered about the

¹ *Journals of Congress*, vol. v., p. 626.

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table on this August day, were in a light-hearted mood. The President as he scrawled his name remarked, that he wrote his name thus large "that King George might read it without spectacles." A man whose name is unknown, and who was uneasy, because of this unseemly facetiousness, soberly suggested that they must all hang together. This was too much for the genial old wit of the company who replied, that "unless we all hang together we must all hang separately."¹ Later, the corpulent member from Virginia followed the lead suggested, and said to a lean member from Massachusetts, "I shall have the advantage over you, for my neck probably will be broken at the first drop, whereas you may have to dangle for half an hour."²

It may seem incongruous that these men should indulge in such trifling talk as they sign their names to a document that closes with these words: "And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge each other our Lives, our Fortunes, and our Sacred Honour." But nature knows about this. The great moments

¹ Jefferson states that Franklin would have been asked to write the Declaration, but for the fear that he would insert a joke. See *Writings of Franklin*, Smythe Ed., vol. i., p. 166.

² Hosmer's *Life of Samuel Adams*, p. 349.

in history are usually relieved by the lighter touches. And as the deep heaving billows in the violent storm, toss from their crests the flecks of foam, so from the surface of minds, in the depths of which are profound and serious convictions, this persiflage is thrown.

But who were the men who signed their names, and pledged their lives, fortunes, and honour? An examination of the engrossed copy of the original Declaration now in the keeping of the State Department at the national capitol, shows fifty-six names, spread over the paper in five columns. In one of the columns is the name of Samuel Adams, the man of the town meeting, who through adroit management and superb agitation, led the forces of democracy. Below is that of John Adams, his younger cousin, the Atlas of independence, who, having more learning than his relative, exercised less influence. Another name is that of John Witherspoon, the college president, who by his presence in this Congress, gave currency to the expression—the scholar in politics. Not far removed is the name of Francis Hopkinson, who was an enigma to many, because on the surface he seemed a conservative gentleman from England, while in fundamental conviction he was in sympathy with the colonies. And then the

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name of the then most famous man in the colonies, Benjamin Franklin, the printer, scientist, philosopher, statesman, and diplomat. In another column is the name of George Wythe, the great lawyer and equally great teacher of great lawyers, who, in signing this paper, gave assent to a document prepared by one of his students. Separated by several names as if to suggest that he is no longer a pupil, is that of Thomas Jefferson, the man whose mind seemed not well poised in debate, but from whose pen could flow the thoughts of a continent. And finally the name of Edward Rutledge, the youngest deputy in the Assembly, described in one of the crisp Braintree letters, as "too talkative,"¹ but pronounced by one best qualified to judge, "the finest orator of the company."²

To these names should be added others not found at the end of the engrossed copy of the Declaration, for this movement was larger than the hall, with its ink bottle and quill on the table, and the men gathered about it. The name of John Jay, who later became the first Chief Justice of the Supreme Court is missing, because not receiving instructions from his colony in time, he lacked

¹ *Works of John Adams*, vol. ii., pp. 369, 401.

² *Writings of Washington*, Ford Ed., vol. ii., p. 440.

authority to sign his name.¹ And the name of John Dickinson, the penman of the Revolution, is not in the list. He was in agreement with the delegates, as regards the justice and ultimate need of independence, but on grounds of expediency, doubted the wisdom of a declaration at this time.² The signature of Patrick Henry, "who spoke as Homer wrote," is not here. However, the absence of his name means more than its presence would have meant, for it reminds us of the fact sometimes forgotten, that the struggle for independence was as important in the colonies forming the Union, as in the union formed by the colonies. And in this year he was leading the progressive forces of his State in the adoption of its constitution.

And one more name, that of Washington. If any evidence were needed to prove that the Revolutionary movement in its representative aspect, was larger than the names attached to the document, that evidence is furnished by the absence of his name. Washington had been a member of the Congress, and Patrick Henry, so unlike him in many respects said, "In solid information and sound judgment he was the first man in the Congress."³ But the time had come to

¹ *Journals of Congress*, vol. vi., p. 1092.

² *Ibid.*, p. 1087.

³ *Writings of Washington*, Ford Ed., vol. ii., p. 440.

leave the Congress. He was among the first to perceive the military aspect of the struggle. He understood that the realisation of independence whether within or without the empire, meant more than agitation and legislative enactment. The mind of the reader to-day is hushed, as one of the intimate letters of this simple and modest man is read, closing with the words, "It is my intention to devote my life and fortune to the cause we are engaged in if needful."¹ In the Second Congress he appeared in the famous blue uniform with the buff trimmings of a colonel, and as another finely says, "thereby unconsciously nominated himself for the command of the Army."² And the members of the Congress so understanding it, elected him commander-in-chief on June 15th of the same year.³ After making his only recorded speech in the Congress, he left Philadelphia and joined the little army at Boston. And on this summer day in 1776, while the delegates are signing their names to the Declaration, he is yonder at New York, watching with brave and anxious heart, the ships of the British squadron, as they tug at the anchors off Staten Island.⁴

¹ *Writings of Washington*, Ford Ed., vol. ii., p. 464. ² *Ibid.*, p. 477.

³ *Journals of Congress*, vol. ii., pp. 91, 92.

⁴ The mythical tendency in history has shown itself in the story of the signing of the Declaration. A corrective for this

Surely if ever a man in history was able to prove a glorious alibi, that man was Washington. And it was more than an alibi, for Washington at New York, in this crisis, was the extension to the field of battle of the Continental Congress. He, with the army under him, was trying to do what the Congress was trying to say. And it is no mere rhetorical flourish to suggest, that if the Declaration of Independence was written on parchment, it was framed with bayonets and nailed with shot.¹

These are the men who formed the Revolutionary group of 1776, with Washington as the commanding personality. A group to whom Chatham paid the following tribute when he said:

tendency is found in reading Friedenwald's *The Declaration of Independence*. However, the student feels some sympathy for this tendency as he recalls Samuel Johnson's words: "There are inexcusable lies, and consecrated lies. For instance we are told that on the arrival of the news of the unfortunate battle of Fontenoy, every heart beat, and every eye was in tears. Now we know no man eat his dinner the worse, but there should have been all this concern; and to say there was, may be reckoned a consecrated lie." Boswell's *Johnson*, vol. ii., p. 218.

¹ The measure of Washington's influence on Congress, in the days immediately preceding the issuance of the Declaration will never be taken. Washington Irving seems to imply that it was greater than is supposed by writers to-day. He quotes General Lee as writing Washington: "I am extremely glad, dear general, that you are in Philadelphia, for their counsels sometimes lack a little military electricity." Irving's *Life of Washington*, vol. ii., p. 208.

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For myself I must declare that in all my reading and observation—and history has been my favourite study; I have read Thucydides, and have studied and admired the master states of the world—that for solidity of reasoning, force of sagacity, and wisdom of conclusion, under such a complication of difficult circumstances, no nation or body of men can stand in preference to the General Congress at Philadelphia.¹

It was a diversified group. In experience, ability, and temperament, its members varied. It is a long distance from Sam Adams, fitted out with a new suit of clothes by his neighbours in Boston, that he might make a respectable appearance at the First Congress, to Francis Hopkinson, the polished gentleman receiving from Europe the latest importations of books. And the transition is rather sudden from the young, impulsive, and inexperienced Ned Rutledge, not yet thirty, to the sagacious, long-headed Ben Franklin in his seventieth year. However, as bits of glass in a kaleidoscope, of varying shapes, sizes, and colours, when shaken together, make a perfect picture, so these men combining their differences, produced the glorious formation of the Declaration of Independence.

And in the Declaration as thus written with pen and sword, the Revolutionary leaders with Wash-

¹ Hansard's *Debates*, vol. xviii., p. 155.

ington as the commanding figure are seen in the attitude of protest. The group in this period is not concerned primarily with a statement of government as it should be, but with a protest against government as it is. This means, that being a protest, it does not contain a clear statement of the political philosophy of the period. This philosophy is set forth in the formal addresses issued to the inhabitants in different parts of the empire, by the Congress in the preceding months, and better still, in the constitutions as adopted by the States in the following months.

The leaders in the Declaration take an attitude in opposition to that taken by the Parliamentary leaders in 1765. The one word of the English leaders in their task of empire was, *unification*. The one word of the American leaders in their document of protest is, *separation*. This protest through separation was called forth by the conception of power as advanced by the Parliamentary leaders in their attempt at unification. And so the Revolutionary leaders say: "When a long train of abuses and usurpations, pursuing invariably the same object, evinces the same design to reduce them under absolute despotism, it is their right, it is their duty to throw off such government." And, as was noted in the preceding

chapter, in trying to solve the problem of power in government for the unification of empire, the question of its lodgment arose. The English leaders, in the Declaratory Act passed in connection with the withdrawal of the Stamp Act, and in the retention of the duty on tea after the Townshend Acts had become inoperative, maintained that in Parliament was lodged absolute power to legislate for the colonies in all matters whatsoever. In protesting against this theory of power as lodged, the Revolutionary leaders go back of the ministerial leaders in Parliament to the King, by whom they were controlled, and say: "He has combined with others to subject us to a jurisdiction foreign to our Constitutions, and unacknowledged by our laws; giving his assent to their acts of pretended legislation." They maintained that in the distribution of power in the empire, their legislatures were co-ordinate in power with that of Parliament.

This brought them, in the protest, to the question of the source of power. The English contention was that as all parts of the empire were represented, the Parliament, being imperial in representation, was therefore imperial in power. The colonies insisted that their legislatures were co-ordinate in power, because of necessity, except

by a legal fiction, the colonies could not be represented in Parliament. And so, they said, the attempt of the English ministry to legislate for the colonies in "all matters whatsoever," was unconstitutional. They ignore the terms used in 1765, such as internal and external taxation, and virtual and actual representation, and take a position not only against taxation without representation, but also, legislation without representation. They protest against "the placing of standing armies without the consent of our legislatures," and of "taxation without our consent."

These questions of power as lodged and derived, led to the third and more pressing question of expression. For the important consideration in a period of protest is, how shall the power claimed by those protesting be expressed. They, like the Parliamentary group, answered this question by saying, first, through compromise if possible. However, the colonies during this period were as defective in the art of compromise, as was the home government. The fact is, any period in which the main emphasis is placed upon "rights," as distinct from what is right, is not one for the exercise of this constructive and noble spirit. It might perhaps be shown that the Revolutionary

leaders were disposed to grant at the beginning of the period, that which later, under compelling circumstances, they refused to grant; even as later in the period the Parliamentary leaders were disposed to grant that which earlier in the period they refused. The Revolutionary leaders hint at this when they say: "Such has been the patient sufferance of these colonies." But probably no nearer approach to compromise during the period is found than in the Declaration itself. A comparison of the draft reported by Jefferson, with the draft amended and finally adopted by the Congress, indicates a tendency in this direction. Two paragraphs in Jefferson's copy, the one censuring the English people, and the other against slavery, were stricken out entirely.¹ Even these suggestions of compromise are qualified, when it is remembered that the first paragraph was omitted in order to strengthen the argument, and the second that there might be unity of action and thus a united front.

It was during the debate over these paragraphs, and while Jefferson listened uneasily to the criticisms of his carefully worded sentences, that Franklin told him the famous story about the hatter:

¹ *Journals of Congress*, vol. vi., p. 491.

When I was a young journeyman printer, one of my companions, an apprentice hatter, having served out his time, was about to open shop for himself. His first concern was to have a handsome sign board, with a proper inscription. He composed it in these words, "John Thompson, Hatter, makes and sells hats for ready money," with the figure of a hat subjoined; but he thought he would submit it to his friends for their approval. The first he showed it to thought the word "Hatter" tautologous, because followed by the words "makes hats," which showed he was a hatter. It was struck out. The next observed that the word "makes" might as well be omitted, because his customers would not care who made the hats; if good and to their mind they would buy by whomsoever made. He struck it out. A third said he thought the words "for ready money" were useless, as it was not the custom of the place to sell on credit; every one who purchased expected to pay. They were parted with and the inscription now stood, "John Thompson sells hats." "Sells hats?" says his next friend, "why nobody will expect you to give them away; and what is the use of that word?" It was stricken out, and hats followed it, the rather as there was one printed on the board. So the inscription was reduced ultimately to "John Thompson" with the figure of a hat subjoined.¹

[If the first answer of power through compromise was ineffectual, then the second answer by force became necessary. Force did not follow in order

¹ *Writings of Thomas Jefferson*, Smythe Ed., vol. i., p. 32.

to make effective the announcement of separation. But force having been used in making the protest, and having failed, separation as a last resort was declared. However, were the colonies justified in using force while remaining within the empire? The answer of the Revolutionary group was, Yes, and so they say: "When any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it." In making this assertion, they were clearly within the meaning of the English constitution. These men had not forgotten the history of the seventeenth century in the mother-country. And more than this, they had studied the liberty documents, and knew that in the Great Charter, there was a clause to the effect that when the King exceeds his duty, the people may seize his castles and oppose his arms.¹

This led to a fourth question,—namely, what constituted the abuse of power in government? The leaders believed that this abuse was in the person of King George. They doubtless exaggerated this, and the reader should not forget that the leaders, in omitting all mention of Parliament, and holding the King responsible for the acts of government in the colonies, had an argu-

¹ *Journals of Congress*, vol. vi., p. 1076.

mentative object in mind. They had finally reached the only logical position, that the colonies were a part of the empire, not through Parliament, but through the Crown. If this were true, in protesting against the acts of government, they must make their protest to and against the Crown. But back of this argumentative maneuvering for position was a real protest against King George. They believed that in his extreme use of prerogative, based upon the Tory theory of the divine right of the king to rule, there was a tendency away from constitutional government, and this if persisted in, would destroy free institutions. So they speak of "a Prince whose character is thus marked by every act which may define a tyrant," and who, "is unfit to be the ruler of a free people." He, the personal king, was the abuse of power. In this they were in agreement with a conspicuous minority of English leaders.

The Declaration of Independence then, is a revelation of Washington and the Revolutionary group of 1776 in the attitude of protest, against the conception of power in government as lodged, derived, expressed, and abused, as held by the Parliamentary group of 1765.

But at this point, the student needs to be on his guard, lest he assume that in this great document

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is found an explanation of the era. The saying, "no documents, no history," may be true. But another saying, "no history, no documents," is also true. For documents are never the causes, but the effects of historic movements. And this document was but the culminating effect of causes that were fundamental in colonial life, and which made inevitable the protest against the English conception of power. What were these causes?

The answer to this question is best found in the little pamphlet by Thomas Paine, entitled "*Common Sense*."¹ This pamphlet of less than half a hundred pages, is of peculiar value in that it gives a well-nigh perfect picture of the influence upon the popular mind of conditions that were inherent in the situation. By a clever play upon the thoughts and feelings of the people, through a description of the existing conditions, Paine suddenly became a mighty force in the crisis. He wrote the pamphlet in January, 1776, and within

¹ Thomas Paine has only in recent years come into his own, thanks to the thorough investigations of Moncure D. Conway, who has written his life and edited his works. For some reason, the early biographies of Paine were written, not for the purpose of interpreting but discrediting him. The man who received Napoleon Bonaparte as a caller, and heard the great emperor say that he slept nightly with a copy of his writings under his pillow, must have been more of a man than Chalmers and Cheet-ham would have the world believe.

a few weeks it reached the enormous sale of over one hundred thousand copies.¹ And it is no exaggeration to say, that, judged by the swiftness and intensity of its influence, it is the most remarkable achievement in the history of literature. No less an authority than the superb agitator Sam Adams said: "It unquestionably awakened the public mind and led the people loudly to call for declaration of our national independence."²

It is true the argument lacks balance, and is expressed in exaggerated language. The statement of the compact theory is also in terms of simplicity which are doubtless contrary to fact. Yet the critic of this pamphlet to-day needs to exercise some modesty, as he remembers that the words, "by their fruits ye shall know them," are as true in pamphleteering as in conduct. And further, as he recalls the fact, that, Washington among the first to read the pamphlet, wrote to a friend, "the sound argument and unanswerable reasoning contained in the pamphlet, 'Common Sense,' will not leave numbers at a loss to decide upon the propriety of separation."³ Let us turn then the pages of this famous little work to

¹ Conway, *Thomas Paine*, vol. i., p. 69.

² *Writings of Samuel Adams*, Cushing Ed., vol. iv., p. 412.

³ *Writings of Washington*, Ford Ed., vol. iii., p. 396.

find by suggestion an enumeration of the conditions which give meaning to the protest of the Revolutionary group.

First, there was the sense of vastness. The French War, ending in the treaty of Paris in 1763, removed geographical barriers. The colonies in helping to remove the barriers, caught a view of the continent, and after the barriers were removed, the view as caught, was heightened. Only the fringe of the continent was settled, and vast portions were unexplored, but it was there, and the hostile limitations were gone. Settlers began to move down the Mohawk Valley, and over the Alleghany Mountains. The great ocean, winding streams, dark forests, towering mountains, inland lakes, and rolling prairies, influenced their thinking, and caused them to feel the touch of destiny. The credentials issued to members of the First Congress, speak of the "Continent of North America." The Congress these members attend is the "Continental" Congress. The army authorised by the Congress, is the "Continental" Army.

And Washington, as no other member of the Revolutionary group, perhaps embodied this sense of vastness. His early experience had led him over the mountains. His later plans called for huge

land developments on the banks of the Ohio. And even the thought of his great plantation caused him to stand forth as the man of a continent. Paine, understanding the grip that this sense of vastness had upon the mind of the people, says: "T is not the affair of a city, a county, a province, a kingdom, but of a continent—of at least one eighth part of the habitable globe."¹ And again, "There is something absurd in supposing a continent to be perpetually governed by an island. In no instance hath nature made the satellite larger than the primary planet."² The colonies with the vast area, unlimited resources, and increasing population, felt that it was not right that an island should rule a continent. And Paine appealed to this feeling.

Second, there was the fact of distance. The colonies were far away from the mother country. The Atlantic Ocean was many times larger in the eighteenth century than it is in the twentieth century. This fact had its influence in the great struggle. It meant that few crossed the ocean. It is interesting to note that only one member of the Parliamentary group had ever visited America, and only one member of the Revolutionary group

¹ *Writings of Thomas Paine*, Conway Ed., vol. i., p. 84.

² *Ibid.*, p. 92.

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had ever visited England. And the result of this geographical separation was seen in three directions.

First, the English leaders in attempting to extend the system of imperial control, failed to understand the conditions in the colonies. Had Mansfield spent a few weeks in America, he would never have closed one of his memorable speeches by saying with easy composure, "God bless this industrious, frugal, and well-meaning, but easily deluded people."¹

Second, it was seen in the failure to make effective this system of control. Doubtless the strain would have been relieved had the colonies been represented in Parliament. This point the English leaders would have yielded. But was it feasible? The colonies were far away and the ocean rolled between. Hutchinson saw this when he said: "I doubt whether it is possible to project a system of government in which a colony, three thousand miles distant from the parent state, shall enjoy all the liberty of the parent state."²

Third, the result was seen in the gradual loosening of the ties that bound the colonies to the mother country, and with the loosening of ties, a loss of

¹ *British Orations*, Adams Ed., vol. i., p. 170.

² Howard, *Preliminaries of the Revolution*, p. 261.

the feeling of personal loyalty to the king. A writer on this period speaks of, "the ancient and passionate love of the American colonists for England itself, for England the cradle of the race, the one spot in all the world, which, during nearly two hundred years' absence from it, they had continued to speak of as home."¹ But a reading of the Revolutionary literature does not support this statement. Nature was against it. The fact of distance and the influence of time had done its work. The impulsive attitude of Washington, seen in his remark, "that he wished to God the liberties of America were to be determined by a single combat between himself and George,"² somehow does not reveal that august conception of royalty, that some of the loyalists not long in the colonies gloried in.

There is a story of early Virginia which illustrates the influence that distance exerted upon the colonies. In the founding of the James River Colony, the Indian Powhatan played an important and sometimes unexpected part. It is said that at the time of his coronation he was presented with a basin, ewer, bed cover, and a scarlet cloak, but

¹ Moses Coit Tyler, *Literary History of Amer. Rev.*, vol. ii., p. 132.

² *Writings of Washington*, Ford Ed., vol. ii., p. 440.

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showed an unwillingness to kneel and receive the crown. At last three of the party, by bearing hard upon his shoulders, got him to stoop a little, and while he was in that position they clapped it upon his head. Powhatan innocently turned the whole proceeding into ridicule by taking his old shoes and cloak of raccoon skin, and giving them to Newport the governor.¹ Perhaps this is only an early Virginian story, but it fairly illustrates some tendencies which due to the fact of distance, were at work in America.

Paine used this growing feeling in his pamphlet. He makes fun of royalty, and plays upon the fact that strong sentiment for England is absent. He says: "Even the distance at which the Almighty hath placed England and America is a strong and natural proof that the authority of the one over the other was never the design of heaven."² He touches upon the practical difficulties of administration when he says: "To be always running three or four thousand miles with a tale or petition, waiting four or five months for an answer, which, when obtained, requires five or six more to explain it in, will in a few years be looked upon as folly and childish-

¹ L. G. Tyler, *England in America*, p. 56.

² *Writings of Thomas Paine*, Conway Ed., vol. i., p. 89.

ness."¹ And the people understood what he meant.

The third condition, was a consciousness of growing unity, which was much deeper than the people imagined, because it often struggled unsuccessfully to express itself. It was like the several streams, which, hidden in the marshes flow along separately, until they converge and form the larger stream. It found expression when a ship in the seventeenth century sailed from the James River to Salem for a cargo of corn. It appeared in the New England Confederation for mutual defence. It was seen later when the soldiers from the different colonies joined to form the common armies in the French War. It was strengthened as the population increased and the fringes of the settlements on the coast began to touch. It was accentuated by the widespread opposition in the colonies to the attempt at taxation, until Patrick Henry in the First Continental Congress was able to say: "The distinctions between Virginians, Pennsylvanians, New Yorkers, and New Englanders, are no more. I am not a Virginian but an American."² And finally, it was formally expressed in the Congress which

¹ *Writings of Thomas Paine*, Conway Ed., vol. i., p. 92.

² *Works of John Adams*, vol. ii., p. 367.

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gave forth the historic document of protest. For it is well to remember that this document was not as the term implies, merely a declaration of separation, but also an assertion in favour of confederation.

Washington stands forth as the embodiment of this growing unity. And the evidence for this is found, where it is always best to find it, in the actions of his life. Following the Stamp Act agitation, he writes to his agent in London:

If there are any articles contained in either of the respective invoices—which are taxed by act of Parliament for the purpose of raising a revenue in America, it is my express desire and request that they may not be sent, as I have entered heartily into an association not to import any article which now is, or hereafter shall be taxed for this purpose until the said act or acts are repealed.¹

And, five years later, he appeared at the famous meeting of the delegates from the counties of Virginia at Williamsburg, and delivered a speech which another declared was the most eloquent ever made, when he said: "I will raise a regiment of a thousand men at my own expense, and myself march at their head for the relief of Boston."² That is, Washington was willing to join his in-

¹ *Writings of Washington*, Ford Ed., vol. ii., p. 268.

² *Works of John Adams*, vol. ii., p. 360.

terests with those of men in the other colonies. He was willing to adjust his affairs, give of his substance, and offer his services, not merely for the welfare of his colony, but to advance the prosperity of all the colonies. This was the very essence of unity.

Paine was keen enough an observer to detect this consciousness of growing unity. And so he appeals to them to make the most of it, when he warns them that the "Continental belt is too loosely buckled,"¹ and he tells them again:

'T is not in numbers but in unity that our great strength lies; yet our present numbers are sufficient to repel the force of all the world. The Continent hath at this time the largest body of armed and disciplined men of any power under heaven; and is just arrived at that pitch of strength in which no single colony is able to support itself, and the whole when united is able to do anything.²

And the people responded as he told them of that which they possessed.

Fourth, there was a feeling of moral superiority. Or perhaps a better statement would be, there was a feeling that the condition of England as revealed in its political life was morally inferior. The

¹ *Writings of Thomas Paine*, vol. i., p. 117.

² *Ibid.*, p. 101.

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Revolutionary leaders believed that not a little of their trouble was due to this cause. A reading of the pamphlets issued, or of the formal pronouncements of the Continental Congress makes this clear. Take this statement, made by the Congress in 1775, in the address to the Jamaica Assembly:

In Britain, where the maxims of freedom were still known, but where luxury and dissipation had diminished the wonted reverence for them, the attack has been carried on in a more secret and indirect manner. Corruption has been employed to undermine them. The Americans are not enervated by effeminacy like the inhabitants of India; nor debauched by luxury like those of Great Britain.¹

This is strong language to use of those in high places, yet the language is none too strong, when one turns the pages of English history for the eighteenth century as written by Horace Walpole, Lecky, Green, and others. Lecky uses still stronger language when he says, "that treachery and duplicity were common to most English statesmen between the Restoration and the American Revolution."² Pitt confessed the same thing when he said: "I borrow the Duke of Newcastle's majority to carry on the public

¹ *Journals of Congress*, vol. ii., p. 204.

² Lecky, *History of England in Eighteenth Century*, vol. i., p. 228.

business.”¹ And a reading of the debate following the introduction in 1780 of a resolution by Burke calling for a reform in the civil establishment, tells the same story, for it reveals a condition of corruption unequalled in English history.

The Revolutionary leaders knew of these conditions through reports from their agents resident in London. They further saw evidence of these conditions reflected in the characters of many of the appointees of the Crown living in the colonies. The Revolutionary group was not morally above criticism in all its individual parts. It had a Franklin, whose writings can hardly be published to-day, unless in an expurgated edition. It had also a Jefferson, who for a time was so top heavy with free thought, that he felt it incumbent upon him to write the name of Deity with small letters, and whose later career showed serious moral delinquencies. But these men were exceptional. It would be impossible to sweep back through the eighteenth century of colonial life and find a list of leaders that would equal in political corruption the English statesmen, Robert Walpole, Newcastle, Carteret, Chesterfield, Bolingbroke, Fox, and Wilkes. There was a moral

¹ Howard, *Preliminaries of the Revolution*, p. 30.

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wholesomeness in colonial political life in marked contrast to that of English political life.

More than this, the normal life of the Revolutionary leaders as expressed in political service, had its roots in deep religious conviction. One of the sayings of Washington often quoted is, "that morality without religion is dead." The men of this period believed this. The distinction is sometimes made between the French and American Revolutions to the effect that the French was social and the American was political. A better distinction would be that the French was philosophical in its origin and social in its expression, and the American was religious in its origin and political in its expression.

Much has been written to prove the origin of the political theories of the American Revolution. Some have found it in the writings of Rousseau. Others are sure that Locke was the source. Still others have found traces in Molyneux or Harrington. All of the answers are true to the extent that in these writings are thoughts similar to those expressed in the Revolutionary period. But the reader is surprised as he examines the writings of the Revolutionary leaders, to find how rarely any of these thinkers are mentioned or quoted. The exception to this is in Blackstone's exposition of

the Great Charter published in 1765, which gave an interpretation in the light of the Revolutions of 1640 and 1688. Undoubtedly this influenced the American thinkers in writing the "bills of rights." Burke, in making his great speech of 1775 on conciliation, testifies to the influence of Blackstone when he says: "I hear that they (English publishers) have sold nearly as many of Blackstone's *Commentaries* in America as in England. General Gage marks out this disposition very particularly in a letter on your table."¹

The more simple, and certainly the more easily traced answer is, that the political ideas of this period had their origin in the religious convictions and ecclesiastical experiences of the people. The little church at Plymouth had the compact theory in working order half a century before Locke wrote his *Two Treatises on Government*. The Scotch and Scotch-Irish on the fringe of the Appalachian Mountains knew about the covenant idea, which came from Geneva and had been accepted by their ancestors in Scotland and Ireland, two centuries before Rousseau, himself a native of Geneva, wrote his *Social Contract*.²

¹ *British Orations*, vol. i., p. 277.

² For discussion of "covenant idea" in relation to government, see A. C. McLaughlin's "A Written Constitution in Some of its Historical Aspects," *Michigan Law Review*, vol. v., June, 1907.

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Jellinek, in his remarkable essay in which an attempt is made to prove the origin of the famous Declaration of Rights adopted by the French Assembly in 1789, says:

The idea of legally establishing inalienable, inherent, and sacred rights of the individual is not of political but religious origin. What has been held to be a work of the Revolution (French) was in reality a fruit of the Reformation and its struggles. Its first apostle was not Lafayette but Roger Williams, who driven by powerful and deep religious enthusiasm, went into the wilderness in order to found a government of religious liberty, and his name is uttered by Americans even to-day with the deepest respect.¹

The fact is, the truths of a period are more often found in institutions than in books. The great work of Calvin, which influenced the Puritan Reformation in England, was carried across the channel from Europe by English and Scotch scholars, not because they read it in his *Institutes*, but because they visited Geneva and studied it as an institution. And to-day the student of the Revolutionary period does well to pay less attention to Rousseau and Locke, and more attention to the history of the little "white meeting houses" with their forms of organisation and church covenants. Again to quote Jellinek:

¹ Jellinek, *Rights of Man and of Citizen*, p. 77.

Literature alone never produces anything, unless it finds in the historical and social conditions ground for its working. When one shows the literary origin of an idea, one has by no means therewith discovered the record of its practical significance. The history of political science to-day is entirely too much a history of the literature and too little a history of the institutions themselves.¹

Paine understood this. He correctly discerned the feeling of moral superiority, which has its source in deep religious convictions and ecclesiastical experiences. He had been from England but two years, when he wrote *Common Sense*, and doubtless he was familiar with Rousseau and Locke. But in stating the historical origin of the compact theory he never mentions either. His statement is faulty, but in finding the origin in the Old Testament, he appealed to the thought of his day. He wrote in the language of a people that believed in a conception of government founded upon the Word of God. And while there is no evidence that Washington ever bothered his head about the theological argument for the covenant theory, yet as he enters the House of God by the roadside in Virginia, and spends the day in fasting and prayer, in preparation for the mighty struggle, he seems to stand forth as the type of religious

¹ Jellinek, *Rights of Man and of Citizen*, p. 57.

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earnestness, that gave to the movement a force that was irresistible.¹

Finally, there was an advanced ideal of political freedom. There are two statements often made, in one form or another, which have in them a wealth of meaning. One is that in the American Revolution, the England of the seventeenth century met and maintained itself against the England of the eighteenth. The other is that the people of the colonies, the freest people then on earth, insisted on, and deserved a larger freedom. Both these statements as broad generalisations are true. And being true, they carry with them certain implications. The first is, that if the colonies stood for the seventeenth century ideal, then this was freer than the eighteenth. Another is, that the ideal of the eighteenth century in England marks a retrograde movement in its political life. And still another is, that in the clash of the ideals of the two centuries, is found the political interpretation of the Revolution.

As was stated in considering the moral superiority of the colonies, the dominant theory of government was that which came from the Puritan Reformation, and which found expression in the ecclesiastical forms and theological creeds. It is

¹ *Writings of Washington*, Ford Ed., vol. ii., p. 415.

interesting to trace this theory as it is taken over into government in the early days, as, for example, by Thomas Hooker, and to see how it acted upon political organisations. And as the influence is studied, the one outstanding fact in colonial life is the growing participation of the people in affairs of government. It was seen in the town meetings of New England, then in the assemblies of the colonies, and finally in the supreme act of the Revolutionary era—the Declaration of Independence. For the Declaration was not given to the world by a group of men that exercised its judgment as a representative body, but by a group which received definite instructions from the people speaking through conventions and assemblies.

While this development was taking place in the colonies, a retrograde movement was taking place in England. When this began is not clear. Some have placed the beginning of the movement at the coronation of George the Third. The reason for this is, that about the time of the coronation of this king, the Tory Party after a long absence, returned to power. However, this is probably not correct. Although during the first half of the eighteenth century, the Whigs who were in power, stood for government by Parlia-

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ment, as over against unlimited power by the king, yet Parliament meant for them not a representative body through which the people spoke, but an agency by which certain great families controlled the government. And it is not without some significance that the authors of the two obnoxious acts which led up to the Revolution, namely, Grenville and Townshend, were Whigs, though serving under a Tory king.¹

So the better statement would be, that, following the Restoration in the seventeenth century, a movement away from the Puritan conception of government began, which was accentuated by the coronation of George the Third in the eighteenth century, and reached its height as the Tory Party coming into power during his reign, encouraged him in the extreme use of prerogative.

As the result of the development of the seventeenth century ideas in the colonies was seen in the growing participation of the people in government, so the result of the retrograde movement away from these same ideas in England was seen in the failure to appreciate the meaning of the absence of government by the people. A striking illustration of this is seen in the argument

¹ Bernard Holland, *Imperium et Libertas*, p. 24.

of Mansfield on virtual representation. In the House of Commons in the year 1774, there were 513 members. Of these, 254 members represented less than 11,500 voters, and 56 members, 700 votes. And of these 56 members not one had as many as 38 electors and 6 not more than 3. The County of Middlesex, including London and Westminster, returned 8 members and Cornwall 44 members.¹ This condition was not created during the reign of George the Third. It existed in the seventeenth century, and against it Locke uttered his protest.² But had the leavening influence of the Reformation period of the seventeenth century been in the political lump, this condition would have been modified by the time of George's accession to power. And when Mansfield spoke in favour of this sort of representation, attempting to justify it on constitutional grounds, it is little wonder that in America some grew impatient of searching "amid musty parchments." He was using a language that the colonies did not understand. There was nothing in their political life to correspond to it. They had gone so far beyond it, that they could not see that which was left behind. And so, in attempting to extend the system of

¹ Lecky, *History of England in Eighteenth Century*, vol. iii., p. 372.

² *Works of John Locke*, vol. v., p. 432.

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imperial control under the influence of this retrograde movement, the inevitable clash came in the Revolution, whose outcome was colonial independence.

Just what was the position of Washington as regards political freedom? Did he believe in the England of the seventeenth century, reappearing under development in the colonial life of the eighteenth century? He accepted, of course, the colonial position as to taxation and representation. But so did such men as Dulany and Galloway, who refused to accept the Declaration. Did he throw in his lot with the Revolutionary leaders as the lesser of two evils? Was he really an aristocrat who lacked faith in the people, but decided all things considered, to stand with the people? These are interesting questions. The disposition on the part of many historical writers, is to lay stress upon Washington the soldier, and to ignore him as the statesman. As a result, Washington at this time in his career is seen with his cloak wrapped about him, standing in the stern of the boat, as it makes its way through the floating ice of the Delaware River. But rarely is he seen in the attitude of quiet meditation on the affairs of government.

It is true that as the student compares the

writings of Washington with those of Jefferson, John Adams, or Franklin, he notes an absence of philosophical discussion. Yet in his writings there is enough suggested, when taken with his actions, to enable the student to form a fairly complete picture. There is the letter written in October, 1774, to Robert MacKenzie, an old army friend, who had taken the loyalist side of the controversy, and joined the British army at Boston. He wrote Washington in August making some derogatory mention of the New England leader, which disturbed Washington, as he, and other southern leaders, felt a little uneasy about Sam Adams and his associates from the North. But with characteristic fairness and thoroughness, upon reaching Philadelphia, he called at their lodgings and spent the evening with them, with the result that Washington's reply sent to MacKenzie, shows him entirely favourable to Adams and his friends, and reveals the quiet Virginian in substantial agreement with the aggressive New Englanders in the movement toward reconciliation through united action, even to the extent of armed resistance.¹

There is also the moment in the spring day in June, 1775, when he modestly arose in the Congress,

¹ *Writings of Washington*, Ford Ed., vol. ii., p. 441.

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and accepted the command of the army.¹ If the saying is true, that actions speak louder than words, then this action of Washington in turning his back upon his ample estates, and committing himself, if needs be, unto death, to "the glorious cause," is filled with profound meaning. Such action has its roots in conviction. And as Washington, seen leaving the Congress, is followed on the weary marches, and in the conflict of many battlefields, the inference is surely reasonable, that along with others, he accepted the fundamental contention of the period, and believed, that the colonies with their conception of freedom, so opposed to that prevailing in England, were justified in seeking their independence.

And then there is Paine's pamphlet entitled *Common Sense*, written in the winter of 1776. Washington's commendation of it, as "sound in argument and unanswerable in reasoning," has been something of a stumbling block to those who would picture him as the reserved aristocrat, having little confidence in the people. It does seem a bit strange to connect Washington with Paine and his theory of simple democracy. Of course, it will not do to make too much of an isolated commendation. However, lest it be sup-

¹ *Journals of Congress*, vol. ii., p. 92.

posed that he was under a momentary enthusiasm, or reached his conviction regarding the people for the first time by reading Paine, it may be well to recall, that six months before, in his letter to General Gage, in speaking of his own commission in the army, he says: "You affect Sir, to despise all rank not derived from the same source with your own. I cannot conceive one more honourable than that which flows from the uncorrupted choice of a brave and free people, the purest source and fountain of all power."¹

It is sometimes suggested, and with reason, that Washington reached his position regarding government in the Revolutionary period, without caring much for the speculative and constitutional aspects of the question. In mentioning the question of taxation and representation in one of his letters in 1765, he refers to the "speculative part of the colonists."² In another letter written in 1774, he modestly disclaims possessing any legal knowledge and says: "Whilst much abler heads than my own hath fully convinced me that it is . . . subversive of the laws and constitution of Great Britain."³ But if Washington seems never to have threaded his way through the intricate

¹ *Writings of Washington*, Ford Ed., vol. iii., p. 91.

² *Ibid.*, vol. ii., p. 209.

³ *Ibid.*, p. 435.

windings of constitutional precedent, yet he early reached the conclusion that such taxation was against nature and therefore wrong. And this was precisely the position which the Revolutionary leaders, after insisting upon "ancient, charter, and constitutional rights," finally took.

If it be suggested, that the simplicity and directness with which Washington based the whole question from the first upon natural right, implies a poverty of thought on his part, the answer is that he uses about the same language that the mighty Pitt, and the profound Camden, as quoted in the preceding chapter, used. Pitt said: "At the same time this kingdom, as the supreme governing and legislative power, had always bound the colonies by the laws . . . in everything, except that of taking their money out of their pockets without their consent."¹ Washington said: "I think the Parliament of Great Britain hath no more right to put their hands into my pocket without my consent, than I have to put my hands into yours for money."² Camden said: "My position is this . . . taxation and representation are inseparable. This position is founded on the law of nature. It is more, it is in itself an eternal

¹ Cf. p. 30.

² *Writings of Washington*, Ford Ed., vol. ii., p. 420.

law of nature."¹ Washington said: "An innate spirit of freedom first told me, that the measures . . . are repugnant to every principle of natural justice."²

And so in concluding the study of the Revolutionary group of 1776, it may be said that its attitude was one of protest against the theory of the Parliamentary group regarding power in government. The reason for this protest is found in certain conditions of colonial life; the sense of vastness, the fact of distance, the growing consciousness of unity, the feeling of moral superiority, and the advanced conception of political freedom. And as Washington was the dominant personality in the group that made the protest, so was he also the nearest approach to the embodiment of the conditions that explain the protest.

¹ Cf. p. 32.

² *Writings of Washington*, Ford Ed., vol. ii., p. 435.

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It is a familiar fact in history, that great men move in the direction of unusual events, which, though just ahead, are not anticipated, but which when reached, are accepted as inevitable. And history offers no finer illustration of this fact than Washington in relation to the two great events of his career, the Declaration of Independence and the Constitution of the United States. On his way to the Continental Congress in 1774, and moving in the direction of the Declaration of Independence, Washington did not anticipate it, for he wrote a friend at this time, "that no thinking man in North America desired independence;" but in 1776 he accepted the same as inevitable and proceeded with the army under his command, to make it effective.

Again in 1785, Washington did not catch the significance of events as from the threshold of his ample home he welcomed the commissioners of Maryland and Virginia, who came to discuss the navigation of the Potomac River.¹ Yet within

¹ *Writings of Washington*, Ford Ed., vol. x., p. 371, note.

the walls of his mansion, plans were adopted which involved another and larger meeting the following year at Annapolis. And when from this larger meeting the call for a convention was issued, he responded to the same, and in 1787 started on his second historic journey from Mt. Vernon to Philadelphia, accepting the fact, that the time had come to act in amending the frame of government.

With this thought in his mind, let us think of him as he entered the city by the Delaware on the May morning in 1787. Thirteen years had passed since he first visited the city as a member of the Continental Congress—as many years as there were States in the Confederation. About him were reminders of those days. There was the famous hall in which he presented his credentials as a deputy from Virginia. Smith's tavern was still standing, which had been the favourite rendezvous of the celebrated leaders. To the northward ran the highway, along which he passed, on the memorable day when he received his commission as commander of the army. It must be that the rather slow imagination of his massive nature kindled amid such reminders of other days. But Washington was not the man to lose himself in the memories of the past. He

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was essentially a man of action, and the present for him was all important.

Perhaps as he drew near the city, there was in his pocket the last newspaper from Boston, giving in more detail the facts of the recent Shays Rebellion, which prompted him to write that, "there are combustibles in every state, which a spark might set fire to . . . I feel . . . infinitely more than I can express to you the disorders which have arisen in these states."¹ It is possible, that as he sought the place of meeting, he saw boys tying continental paper money to a dog's tail, or noticed some of the money pasted on the walls of a barber-shop, thus reminding him, in a ridiculous manner to be sure, that instead of national credit there was only financial weakness.²

Doubtless as he talked with others gathered for the convention, and listened to the reports of conditions in their States, the conviction settled down upon his mind, like the damp fog coming in from the sea, that the former unified enthusiasm no longer existed. The States were now more interested in independence through local assemblies, than in government by confederation. And

¹ *Writings of Washington*, Ford Ed., vol. xi., p. 103.

² A. C. McLaughlin's *The Confederation and the Constitution*, p. 56.

the Congress of the Confederation, as he knew, was like a clock, which in need of winding, strikes the hour but faintly, and soon will cease even to strike.

Think of him also, as he entered the convention hall and looked over the company assembled. How many from the earlier days were missing? Sam Adams was not in the rear of the room planning with others some forward move. Patrick Henry was not on his feet welding the various interests into a single impulse by his superb oratory. Thomas Jefferson who had entered the Continental Congress as Washington left it, was not in his seat putting the finishing touches to some document. John Adams was not taking notes preparatory to leading some great debate. And Tom Paine was not on the outside trying to convince some cautious member of the need for more radical action.¹ The personnel of the leadership had changed. Only six men who had signed the Declaration of Independence were to sign the document of this convention.

Benjamin Franklin, the aged diplomatist, just home after a brilliant career in France, was there.

¹ Paine according to his biographer, was responsible for the clause in the original draft of the Declaration against slavery. It was stricken out as too radical. Conway's *Life of Paine*, vol. i., p. 80.

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Robert Morris, the seasoned financier who had often watched the treasury when it needed no watching because of lack of funds was in his seat. Roger Sherman, who began life as a shoemaker, rising by sheer merit to a position of commanding influence in his State, and James Wilson, the speculative Scotsman, whose theories were as sensible as they were daring were both members.

Along with these veterans of the former struggle, was a company of younger recruits.¹ Rufus King, the able statesman with his inspiring vision of national greatness; William Paterson, who never faltered in his devotion to the smaller States even at the expense of the larger; Edmund Randolph, who presented one of the constitutional plans for discussion, but which plan was so changed that he refused to sign it; the Pinckneys of South Carolina, who were to this convention what the "brace of Adamses" had been to the Continental Congress; Gouverneur Morris, whose impulses were sometimes in excess of his judgment,

¹ William Pierce of Georgia, did for the Constitutional convention, what John Adams in his "Familiar Letters" did for the Continental Congress. He seems to have been specially interested in the ages of the members. And if his statements are correct the average age was about forty. See foot notes to Madison's *Journal*.

and who gave to the document its final literary form; James Madison, the thorough student of government, who took a seat near the front and by his reports saved the records for posterity¹; and Alexander Hamilton easily the most brilliant man in the company, with an influence which did not become decisive until the convention adjourned.²

Then think of Washington in the convention, as he takes his place upon the platform to preside over its deliberations. The *Journal* of Madison says that a quorum having been counted a motion was made and passed without a dissenting voice, electing him the presiding officer.³ Does this mean that he is the commanding personality of this era, as he had been of the Revolutionary era? From another hall, less than a stone's throw away, he had some years before, with becoming modesty hurried out, when the Continental Congress turned to him as commander-in-chief to make effective on the field of battle the

¹ "In pursuance of the task I had assumed, I chose a seat in front of the presiding member. . . . In this favourable position for hearing all that passed, I noted in terms legible . . . what was read from the chair or spoken by the members." Madison's *Writings*, vol. ii., p. 410.

² Gertrude Atherton's novel, *The Conqueror*, should be read for its description of Hamilton.

³ Madison's *Journal*, Hunt Ed., vol. i., p. 3.

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protest they were uttering. And now in this era, of constructive governmental action do they by this act, repose the same confidence in his judgment and character?

Of course too much or not enough may be made of the fact that he was elected presiding officer. Too much may be made of his position in this era, by forgetting that the suggestion for this convention did not come from him. It probably came from Hamilton.¹ Neither was the conception of government which took shape in the convention, his product. The credit for this, if given to any man, belongs to Pelatiah Webster.² In the discussions as recorded in the *Journal*, he took little part, and offered no contribution. In the gathering, were men who in certain particulars were his superiors. James Wilson was keener in debate; Rufus King's imagination was more glowing; James Madison had read more widely; Alexander Hamilton was more resourceful; and Benjamin Franklin's experience was more varied.

However, if the student needs to be on his guard, lest he place an excessive emphasis upon Washington's position in this era, he needs also to be careful

¹ *Works of Hamilton*, J. C. Hamilton, vol. i., p. 150 ff.

² Hannis Taylor, *Origin and Growth of American Constitution*, Appendix xi.

lest he goes to the other extreme. There are those who picture him as the American gentleman with English traditions who was forced to leave the retirement of his plantation and lend his influence to a movement that he knew little about. They portray him as dozing now and then in the convention while members in debate drew heavily upon their learning, and quoted the experiments in European governments, even as he dozed at an earlier period while his portrait was being painted.¹ He knew what was meant when the commissioners met at Mt. Vernon and talked about the navigation of the Potomac River. He understood the import of the discussion when at Annapolis in 1786, the commercial situation in the States was considered. But when the movement widened into one for the call of a convention to frame a new government it went beyond him. To be sure, he was elected President of the convention, and the election was a wise one; because, owing to his military career, his influence was such as to make

¹ "Inclination having yielded to importunity, I am now contrary to all expectation under the hands of Mr. Peale; but in so grave—so sullen a mood—and now and then under the influence of Morpheus, when some critical strokes are making, that I fancy the skill of this gentleman's pencil will be put to it, in describing to the world what manner of man I am." To Dr. Boucher, May 21, 1772. *Writings of Washington*, Ford Ed., vol. ii., p. 349.

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his presence count for much. This is the washed out picture that some draw of the great leader in 1787.

But the true picture of Washington in this period has lines that are clearer and colours that are stronger. It is drawn not alone from material provided in this one act. Men could never forget the blue uniform and buff trimmings of the general. Neither could these things hide the rich and full nature of the man. Others, who in certain particulars were his superiors, turned to him because his personality was so commanding that it drew them to itself, as the magnet draws the steel filings. Hamilton in writing to him four years before said: "I will add that your Excellency's exertions are as essential to accomplish this end as they have been to establish independence."¹ Two months before the convention met Knox wrote: "I am persuaded that your name has had already great influence to induce the states to come into the measure—and that it would more than any other circumstance induce a compliance with the propositions of the convention."² And after the convention had been in session two months, and rumours of serious differences began

¹ *Works of Hamilton*, J. C. Hamilton, vol. i., p. 349.

² *Writings of Washington*, Ford Ed., vol. xi., p. 123 note.

to reach the public, Monroe in writing to Jefferson said:

But I trust that the presence of General Washington will have great weight in the body itself, so as to over-run and keep under the demon of party, and that the signature of his name to whatever act shall be the result of their deliberations, will secure its passage through the Union.¹

With such testimony before us, it may be said, that it was his influence which led to the calling of the convention, held it together during a critical period, and after adjournment made it possible for its document to be adopted. And more than this may be claimed: It is known that he kept pace with the progressive thought in his day regarding the need of a stronger government. While other great leaders from the Revolutionary era, such as Samuel Adams and Patrick Henry still speculated on liberty and its meaning, he moved forward to the region of government. A few weeks before the convention assembled in Philadelphia, he examined the drafts of a proposed constitution, as prepared by Pinckney, Madison, and Hamilton, and tabulated the results.² He was convinced that the advance registered through

¹ *Writings of James Monroe*, Hamilton Ed., vol. i., p. 173.

² *North American Review*, vol. xxv., p. 263.

protest in 1776 could be made permanent, only as a stronger government was established. When the convention came together his hope was that it would "probe the defects of the constitution to the bottom and provide a radical cure."¹ Power was needed, and by power he meant to accept Hamilton's definition given later in *The Federalist*, "the faculty and ability of doing a thing."²

His position on the need of a stronger government may be illustrated by a story which James Wilson told.

The business which we are told was entrusted to the late convention was merely to amend the Articles of Confederation. This observation had been frequently made, and has brought to my mind, a story that is told of Mr. Pope, who, it is well-known, was not a little deformed. It was customary with him, to use this expression, "God mend me!" when any little accident happened. One evening a little boy was lighting him along and coming to a gutter, the boy jumped nimbly over it. Mr. Pope called to him to turn, adding "God mend me!" The arch rogue turning to light him, looked at him and repeated "God mend you? He would sooner make half a dozen new ones." This would apply to the present Confederation; for it would be easier to make another than to mend this.³

¹ *Writings of Washington*, Ford Ed., vol. xi., p. 134.

² *Federalist* No. 33.

³ Elliott's *Debates*, vol. ii., p. 470.

There remains one further question, before considering the work of the Constitutional group, and that is, was Washington able from experience or observation, to derive any assistance, in forming a judgment as to the wisdom of the governmental plan evolved from the debates in the convention? There are two statements about the Constitution, which taken by themselves would imply that it came forth full-orbed from some individual or collective brain. One is De Tocqueville's statement to the effect that it is a "novel theory, which may be considered as a great invention in modern political science."¹ The other is Gladstone's famous comparison, in which, having mentioned the British constitution as "the most subtle organism which has proceeded from progressive history," he then refers to the American Constitution as "the most wonderful work ever struck off at a given time by the brain and purpose of man."²

But these statements are only true in part, for it may be doubted whether Washington as he presided over the convention, believed that a

¹ De Tocqueville, *Democracy in America*, Bigelow Ed., vol. i., p. 151.

² The writer has often seen this statement in print, but has been unable to find it in any of Gladstone's writings at his disposal. Morley does not use it.

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"great invention," or something "struck off at a given time," was being produced. Recent history was pressing upon his mind as a cumulative influence, and was furnishing the convention material with which to construct a government.

The first fact in this recent history was the experiment made by the Parliamentary group, and which broke down under the protest of the Revolutionary group. He must have been impressed by the similarity of the problem that the early group had, with the problem which this Constitutional group had. In each era this problem was created by the victorious termination of a war. The treaty in 1763, forced a radical change of colonial policy upon England. The treaty in 1783, created the possibilities of empire for the young nation in America, and compelled a radical governmental change in order to realise these possibilities. And it is not difficult to believe that the great leader caught the significance of this historic parallelism, and was guided in some measure by it.

The second fact in this recent history, and even more important, was that the people during the Revolution, and apart from it, had been making history of their own. In this history they had been assembling the material for the construction

of an imperial government. This material, now placed at the disposal of Washington and the others in the convention was fourfold.

First, there was the material furnished by the formation of the Continental Congress which existed from 1774 until 1781. How far this Congress carried the people in the States along the pathway toward an organic union of the States cannot be known. To what extent it was overshadowed by the stern realities of a war is uncertain. But that it marked a culminating point in a growing consciousness of unity which had been going on for many years is beyond doubt. For the people it was the symbol of a nation. It accustomed the people to the idea of general as distinct from local power, although the people would have insisted that there was no power save as it was local. But whatever the theory might be, the fact was, that the Congress, under certain limitations, exercised the powers of a sovereign state, even though these powers were only temporarily exercised.

Second, there was the material furnished by the Articles of Confederation, which, strictly speaking, constitute the first constitution of the United States. From 1781 until 1787, these "Articles" were thoroughly tested, and found inadequate to

meet the "exigencies of the Union." The reason for this, as noted elsewhere, was the absence of a coercive power. But although the Articles of Confederation as thus tested proved inadequate, they made one significant contribution to governmental theory, which was used in the convention of 1787. This was the definition made of interstate citizenship, by which the citizens in one State were to have all the rights given to citizens in any State.¹

Third, there was the material furnished by the creation of a national domain.² The fundamental expression of this was in the ordinance under which the North-west territory was organised, which was adopted in the year in which the Federal convention assembled. To Maryland belongs the credit for exerting the most telling influence, which in turn led to this imperial enactment by a nation scarcely conscious of its imperial destiny. For at a critical time when a general government was imperatively needed, Maryland stood firm, and refused to adopt the Articles of Confederation, unless the States relinquished their claims to the western land.³ By successfully insisting upon

¹ *Articles of Confederation*, Art. iv., Section 1.

² *Journals of Congress*, vol. ix., p. 807.

³ *Ibid.*, vol. xiv., pp. 619-622.

this condition, the national domain was created.¹ And in creating this domain the imagination of the people was appealed to. As in the days before the Revolution the people's imagination was touched by the existence of a vast domain, so in the days following the Revolution the imagination of the people was kindled by the fact that this domain had become national. In 1787, common ownership in lands was a term to conjure with.

Fourth, there was the material furnished in the constitutions adopted by the States, through the use of constituent conventions. These constitutions were more readily accepted by the people than the Federal Constitution later, because in them they supposed they had found instruments with which to defend themselves against the encroachments of government. This idea of a written constitution was borrowed from the French political philosophers, although the application of the idea was first made in America.

But if the idea of a written constitution as a weapon of defence was borrowed from the French,

¹ This fact impressed De Tocqueville fifty years later. He says: "If America ever approached (for however brief a time) that lofty pinnacle of glory to which the fancy of its inhabitants is wont to point, it was the solemn moment at which the power of the nation abdicated, as it were, the empire of the land." *Democracy in America*, Bigelow Ed., vol. i., p. 107.

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much that was embodied in the application of the idea was taken from the English. As a writer on constitutional law says: "The best epitomes of the reformed English constitution ever written are to be found in the Bills of Rights of our first state constitutions, drafted by men who knew perfectly what rights were fundamental at that time."¹ And by the "reformed English constitution" the writer of course means the Great Charter as modified by the Revolutions of 1640 and 1688.

However, the early State constitutions differed from the English in two particulars. First, they went further in the enumeration of the rights of the individual. They enumerate the right of religious liberty, of freedom of the press, of assembling, and of free movement. These are not found in the English constitution. Second, they found another basis for the rights of the individual. In the English, the individual comes into his rights through the state. But in the American, "all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity."² This conception of the rights of the

¹ Hannis Taylor, *Origin and Growth of the American Constitution*, p. 369. ² *Virginia Bill of Rights, of 1776*, Section 1.

individual came to them, as was suggested in the preceding chapter, from the religious conceptions of the people, derived from the Reformation, and expressed in ecclesiastical institutions. Where men protest in "the name of the eternal laws of man's being," it is time to look elsewhere than in books or musty parchments. Jellinek is indeed justified in saying that a "deep cleft separates the American declarations from the English enactments."¹

But interesting as is the question of the philosophy of government expressed in the State constitutions, it was not the question uppermost in the mind of Washington in 1787. This is seen in the fact that the Constitution adopted omitted any mention of a bill of rights. This was added by amendment, and only because of the popular demand that arose for it. The question that pressed upon him for answer was the immediately practical one: How to frame a new government with strength enough to meet the "exigencies of the Union."

This practical question gave three aspects of the State constitutions a special interest. The first was the fact that these constitutions were written, and as such were the first known to history. The second was the method of their adoption, by constituent conventions in some States.

¹ Jellinek, *Rights of Man and of Citizens*, p. 46.

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The third was the contents of the governments organised under these constitutions. This third was undoubtedly the aspect that most interested him.

It is not difficult to imagine Washington framing the argument as regards national relations as men to-day frame the argument as regards international relations. To-day, men say that if the States have their separate constitutions under which their affairs are adjusted, and if all the States have a common constitution under which affairs concerning all the people in the States may be adjusted, why not an international constitution for the adjustment of affairs between the nations? In 1787, Washington with other thoughtful men argued, that if the town meetings of Massachusetts can frame a government with power as expressed in a written constitution, why cannot the States frame a general government with power also expressed in a written constitution? The question was answered by working from the parts to the whole, and the parts were borrowed in order to make the whole. And because of this, students are justified in saying, that the adoption of the constitutions by the States is the distinctive feature in the Revolutionary era.¹

¹ There is a thorough discussion of this in Bryce, *American Commonwealth*, vol. i., part 2.

With this portrayal of Washington meeting with, and exerting a commanding influence over the men in this era, together with the thoughts that influenced his thinking, let us now consider the central problem in this period, as revealed in the convention's debates, and the solution offered in its product, namely, the Constitution of the United States.

First, granting that power was needed in the general government, where and how should it be lodged? The question was not whether there should be any power in government, for at this time there was plenty. Washington writing to David Stuart, July 1, 1787 said: "Persuaded I am, that the primary cause of all our disorder lies in the different state governments, and in the tenacity of that power which pervades the whole of their systems."¹ The experience of the generations had taught the people the need and use of power, even though they were disposed to accept Paine's theory that government was a necessary evil. But while there was abundance of power in government, yet it was localised in the States forming the Union, to the exclusion of any central power in the Union formed by the States.

To be sure, the people after the Declaration of

¹ *Writings of Washington*, Ford Ed., vol. xi., p. 160.

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Independence, believed that the nation was something more than the sum total of the thirteen States. The willingness of the States to surrender title to the western lands for the creation of a national domain was evidence of this. But to express it in the form of a paradox, they were willing to recognise something which they did not admit. They were suspicious of any scheme of government that permitted the power to pass beyond local control.

So when the nation was given form in the Articles of Confederation, power in two vital particulars was withheld, namely, the power to tax and the power to regulate commerce. In other words, a government might be formed which was general in scope, but its power must be local. They had won their independence by insisting that power in the parts of the empire was co-ordinate, as distinct from the contention that power in one part was absolute.

Having rejected the theory of absolute power in the whole of the old empire, as lodged at the centre, the question of the distribution of power in the parts of the new empire awaited an answer. An empire could not long exist and expand with power only in the parts. Some sort of imperial control must be established, which would at once

retain the results of the protest made, and at the same time meet the conditions following the protest.

To accomplish this, power must be so lodged as to reconcile the local liberty of the States, with a central authority over the people in the States. And it was not merely the question of lodging power in the whole, but also, the more difficult question of how so to lodge it, as not to destroy the power in the parts. And to realize this, the States must relinquish some power. For as Madison said: "An individual independence of the states is utterly irreconcilable with an aggregate sovereignty."¹

It needs to be remembered, that the men who came together and asked the States to surrender some power, namely, that of taxation and control of commerce, did so for the sake of the States. They were not at this time, primarily citizens of an indefinite, yet in a sense, real nation, but citizens of the States forming the nation. The States were in jeopardy. They were in danger of losing the respect of the world through the failure to pay their debts which had been contracted by them when acting as a nation. Their commerce was being injured by the nations of Europe, which nations could attack this commerce, as a united

¹ *Writings of James Madison*, Hunt Ed., vol ii., p. 337.

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army attacks and defeats detached portions of the opposing army. Something must be done. Team work was needed.¹

Washington felt the importance of this as perhaps no other member of the Constitutional group, unless it be Robert Morris. Eight years of war had been the tragic school in which he had learned this lesson. Four years before, he suddenly appeared among the officers at Newburgh, and drew "his written address from his pocket and his spectacles with his other hand, from his waistcoat pocket, and then addressed the officers in the following manner: 'Gentlemen, you will permit me to put on my spectacles, for I have not only grown grey, but almost blind in the service of my country.'"

"This little address," says an eye witness, "with the mode of and manner of delivering it, drew tears from many of the officers."² But this little address was made to check a possible uprising in the army, the result of neglect by the civil authorities due to the lack of power in the central government.

Often during the war, Washington had heard the soldiers gathered around the camp-fires

¹ It is interesting to note the prominence given to this in *The Federalist*.

² *Writings of Washington*, Ford Ed., vol. x., p. 170, note.

offer the toast, "Another hoop for the barrel or more cement for the Union."¹ And had he been asked to respond to this toast, he would have said without a moment's hesitation, "Not another hoop for the barrel, but more cement for the Union." However, had he been pressed for a more definite answer, as to how much more cement was needed, he would have looked perplexed, and then in his simple and sincere manner have answered, "How much more I do not know."

And no one else knew. He and the others were, to borrow a most apt modern expression, in the "twilight zone." Where the power that gave local freedom to the States ended and the power that gave central authority to the Union began they did not know, even as one cannot tell in the twilight hour where day ends and night begins. Enough, that in the government as formed, sufficient power was lodged, as enumerated in Article II. section 8 of the Constitution to make actual a composite empire; which James Wilson, borrowing the language of Montesquieu, described as an "assembling of distinct societies, which, consolidated into a new body, are capable of being increased by the addition of other members."²

¹ Brooks, *Life of Knox*, p. 170.

² This description also used by Hamilton in *Federalist* No. 9. See, Montesquieu, *Spirit of Laws*, book ix., section 1.

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That Washington believed such an empire had been formed, is evident from his attitude following the adoption of the Constitution. As the first President he made a visit to New England. When he reached Boston, John Hancock by a half disguised ruse allowed it to be known that he expected President Washington to call upon him first—thus suggesting the sovereignty of the State over the Union. But the recently elected President would have none of this. And so John Hancock, prosperous beyond his fellow men, loaded with doctrines of democracy, suffering with gout, and leaning on his cane, must knock at the President's door, enter and pay his respects.ⁱ A nation had come into real existence. This nation, had a President. And the President of at least the sum total of the parts, must take precedence over the Governor of one of the parts. Power at last had been lodged in the Union.

Second, with the power thus lodged, how should it be expressed? The broad answer to this question was by law. To borrow an ancient expression much in vogue to-day, it was to be a government of laws not men. Article VI of the Constitution was adopted unanimously. It contains

ⁱ *Writings of Washington*, Ford Ed., vol. xi., pp. 444-446, notes. Also, *Fisher Ames Works*, vol. I., p. 14.

the central clause of the Constitution, which is the hinge on which the door of the composite government was hung, and on which it has swung ever since. It reads:

This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

But what shall be enacted into law? And how shall the law as enacted become operative? The Constitutional group said the law shall be enacted in the spirit of compromise. That the Constitution, which is the fundamental law of the land, was enacted as the result of compromise admits of no doubt. The two striking illustrations of this are in Article I Section 2 and 3, which provide for the composition of the Senate, and establishes representation on a three-fifths basis for slaves. It is useless to seek for any logical explanation of these provisions, for there is none. The Senate composed of representatives from the States, each State having equal representation, is contrary to the underlying conception of the government

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formed.¹ And the provision for representation which included slaves is impossible of rational defence. As James Wilson said while this question was under consideration: "Are they admitted as citizens? Then why are they not admitted on an equality with white citizens? Are they admitted as property? Then why is not other property admitted into the computation?"² There was no answer.

How then explain this inconsistency? The answer is, the task of the Constitutional group was not to make to order the best government, but out of the material at hand to make the best possible government. Franklin stated this in his quaint way when he said: "When a broad table is to be made, and the edges of the planks do not fit, the artist takes a little from both and makes a good joint. In like manner here both sides must part with some of their demands, in order that they may join in some accommodating proposition."³

¹The theory of representation in the Senate, by which the States as distinct from the People are represented, does not harmonise with the doctrine of indivisibility of power, residing in the People, which later was enunciated, and still later accepted as the doctrine of the Nation. If the power is in the People, then the People should be represented on a proportional basis, in one branch as well as the other of Congress, even though the basis of representation in one branch be reduced.

²Madison's *Journal*, Hunt Ed., vol. i., p. 339. ³*Ibid.*, p. 280.

Here was the broad table of government to be made. In making it broad, many planks must be used. Some of these planks were small States and others large States. Some were Southern planks and others Northern planks. In making a broad table that would hold together the planks must fit. In order to make them fit, a little must be taken from each. And this was done. The small States conceded something to the large States in the proportional representation in the lower House. The large States conceded something to the small States in the equal representation by States in the upper House. The Southern States yielded something to the Northern states in the proposed Navigation Act to be passed by Congress under the commerce clause in the Constitution. The Northern States yielded something to the Southern States in the provision on slavery. And thus the broad table of government was made.

Washington was in sympathy with this spirit of compromise. When the convention came to a close, he, as the retiring President, sent a letter to Congress in which he spoke of the difficulties which had confronted the delegates, of the necessity for a generous consideration for common interests, and of the Constitution as the result of a "spirit of amity, and of that mutual difference

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and concession''¹ which the peculiarity of our political situation rendered indispensable. And perhaps Washington's position on this question of compromise is the surest test of the greatness of his nature. Emerging from a long military career, and having led the forces amid conditions in which compromise had no part, he now quietly takes the leadership, amid conditions in which compromise was an all-important part.

The Constitutional group also said, the law as enacted in the spirit of compromise, shall be made operative by force. But force may be either moral or physical. In a government of laws, the force that is moral is more effective than that which is physical. The moisture that falls occasionally in the tumultuous thunder storm, is not so much as that which falls quietly in the dew on the many clear nights. And there is something magnificent in the conception of power in government as it mastered the minds of the Constitutional leaders, which, expressed in law, came down upon the people, gently, yet pervasively, as dew upon the grass, the symbol of which was the Court of Justice.

But these men were practical leaders. Behind the Court of Justice, as the symbol of the moral

¹ *The Federalist*, Lodge Ed., p. 571.

dignity of the law, they placed coercion by physical force. As Hamilton said in one of the *Federalist* papers, "a government of force alone" (meaning moral force) "and without any coercive power would be good, but such a system has no place but in the reveries of those political doctors whose sagacity disdains the admonitions of experimental science."¹ And Washington agreed with Hamilton for he said: "I confess, however, that my opinion of public virtue is so far changed, that I have my doubts, whether any system, without the means of coercion in the sovereign, will enforce due obedience to the ordinances of a general government; without which everything else fails."² The question then as to the expression of power was answered by saying, through law as enacted in the spirit of compromise, and made operative by force, which usually was moral, and might be physical.

Third, with the power thus lodged and expressed, from whence was it derived? The answer to this question is given in the preamble to the Constitution which says: "We the people of the United States . . . do ordain and establish this Constitution for the United States." And this was literally true. The Constitution of 1787, was adopted

¹ *Federalist*, 28.

² *Writings of Washington*, Ford Ed., vol. xi., p. 133.

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by the people, in conventions, composed of representatives chosen by the people, for the purpose of considering the same.

But this question of the derivation of power cannot be answered merely by quoting the words in its preamble, and calling attention to the method of its adoption, or even by going further, and pointing out the provisions in the instrument for its amendment by the people. This is the orthodox argument in support of the assertion that the Constitution gives us a government with power derived from the people. Or to use an expression found in national political platforms, the Constitution is the form, of which the Declaration of Independence is the spirit. However, there is a disposition on the part of many students of government to-day, to question the accuracy of this argument. They are, as it were, the "Higher Critics" of governmental theory in American history. And the argument is a strong one, and runs something like this:

The reason for changing the government from one of the States as in the Confederation, to one of the people in the States, as in the Constitution, was not that thereby the people might have more influence in the government, but that a stronger central government might be formed. It was power

at the centre that was in the minds of the framers. And those who opposed the Constitution so understood it, as seen in Patrick Henry's words in the Virginia convention when having Washington in mind he said: "I have the highest veneration for those gentlemen; but, sir, give me leave to demand, what right had they to say, We, the People? My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask, who authorised them to speak the language of We, the People, instead of, We the States?"¹

In support of the argument, attention is called to the fact that many of the great leaders of the democratic movement were absent from this convention. In addition to Patrick Henry, who bitterly opposed the adoption of the Constitution, it is known that Sam Adams gave to it but luke-warm support, and finally voted in the Massachusetts convention for its adoption as the lesser of two evils. And Jefferson, who was in France at this time, was indulging in political theories the opposite of those written into this document.² When the influence of these men in the Revolutionary period is remembered, it is safe to assume that,

¹ Elliott's *Debates*, vol. iii, p. 22.

² "I hold that a little rebellion now and then is a good thing, and as necessary in the political world as storms in the physical." *Writings of Jefferson*, Ford Ed., vol. iv., p. 362.

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had they been members of the Constitutional convention, they would have given to it a more democratic flavour.

Another argument is found in the language used in the debates of the convention by those who framed the Constitution. A different political vocabulary from that of the Revolutionary era is used. As the debates during the long summer of 1787, are read to-day, the distinct impression is made upon the mind, that the majority of the delegates were not interested primarily in a progressive government of the people, but rather, in a stable government by the use of the people. Much is said about safeguarding property and the excesses of democracy. Sprinkled over the pages of Madison's *Journal*, are such expressions as these: "He—had been taught by experience the danger of the levelling spirit." "The people should have as little to do as may be about government." "The Senate should be as strong a likeness to the British House of Lords as possible." "He was of the opinion—that the British government was the best in the world." "A government which was instituted principally for the protection of property and was itself to be supported by property."

This argument, based upon the attitude of the members as revealed in the debates during the

convention, is strengthened by the position taken by individual members following the convention. This is illustrated in two ways. The usual illustration is in the papers written by Hamilton, Madison, and Jay in *The Federalist*, in the weeks following adjournment. These papers have been highly praised. The most superlative praise is that given by Marshall. There is, however, a tendency to make too much of these papers as a revelation of the minds of those who wrote the Constitution. Many of the misconceptions regarding the original meaning of the Constitution, are due to a study of *The Federalist* rather than to the debates of the convention. That these masterful papers profoundly influenced the interpretation of the Constitution in the early period of formation admits of no doubt. In the decision of the Supreme Court handed down in *Cohens vs. Virginia*, *The Federalist* is referred to in the following language: "It is a complete commentary on our Constitution, and is appealed to by all parties in the questions to which that instrument has given birth."¹ This is high praise, coming as it does, from the greatest jurist of our history. Yet it is well to remember when these words are quoted, that they were spoken before any authentic record of the

¹ 6 Wheaton, p. 264.

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debates in the convention were published. A comparison of *The Federalist* with Madison's *Journal*, shows clearly that the former does not fully uncover the minds of those who wrote the Constitution. And this might be expected, for these papers were not given to the world to make clear what their authors thought the Constitution meant at the time they voted for it, but to show what it might mean to those who differed from them, and who might be persuaded to agree with them as to the wisdom of adopting it. Yet with this understanding of the papers, it is seen that they represent a distinct change from the Revolutionary period.

The other illustration is John Adams, selected by the Constitutional group as the first Vice-President of the new government.¹ During his residence in England, Adams shifted from his earlier position in favour of a modified democracy, to a position in favour of an extreme aristocracy. This change was known to the leaders in the convention, who doubtless during the debates, read his work entitled, *A Defence of the Constitutions of Govern-*

¹ Merriam, *American Political Theory*, pp. 122-141. The chapter in this work, entitled "The Reactionary Movement," would be stronger as an argument, were more attention given to the debates in the convention, and to the Constitution itself, and less relatively to Adams and *The Federalist*.

ments of the United States, which was written in reply to the French statesman, Turgot, and published in 1787. And knowing of these views, and at the same time desirous of selecting a man in sympathy with the Constitution as they understood it, they turned to John Adams.

But the strongest argument is that of the Constitution itself. The words, "We the people of the United States," are but as the words of the title to a book. And as sometimes the title is ambiguous, so with these words. The method by which the Constitution was adopted might be democratic, but the Constitution, as adopted was not. The reader may start with the preamble, but by the time he has finished reading the seven Articles of the Constitution, the simple democratic charm of the words, "We the people" is gone. The reason for this is, that in the Constitution a government is formed according to the theory of checks and balances. And as the reader seeks a reason for this, he can find but one, namely, as a restraint upon the popular will.¹

In the State governments at this time, there was provision for the executive, legislative, and judi-

¹ What Merriam's chapter lacks is supplied by J. Allan Smith's, *The Spirit of American Government*—a disturbing, thought-provoking, able little book, that must be reckoned with.

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cial departments. But in the actual working of these governments, the emphasis was placed upon the legislative, that is, upon that part of the government most responsive to the will of the people. As Madison said, referring to the State governments: "Experience has proved a tendency in our government to throw all power into the legislative vortex."¹ In the government formed by the Constitution, the least emphasis is placed upon the legislative, and the most upon the judicial. That is, the most emphasis is placed upon that part of the government furthest removed from the people.

Further, in order to make clear the distrust of the people, when dividing the legislative into two branches, the upper branch, namely the Senate which is much less representative than the House, is given more power, as seen in the treaty-making and judicial appointing functions. Is it any wonder then, that Richard Henry Lee in studying the draft of the Constitution, as it came from the convention said: "The only check to be found in favour of the democratic principle in this system is in the House of Representatives, which I believe, may justly be called a mere shred or rag of representation."²

¹ Madison's *Journal*, Hunt Ed., vol. i., p. 382.

² Elliott's *Debates*, vol. i., p. 503.

But what was Washington's position at this time? Did he have as much confidence in the capacity of the people for government as he had in 1776, when he commended the "sound doctrine" of Tom Paine's pamphlet, entitled *Common Sense*? At no time during his long career, is his silence more aggravating than during the weeks of the convention. It would be interesting to know what thoughts wandered through his mind, as he presided over the deliberations, and listened to the statements of Gouverneur Morris, Elbridge Gerry, Roger Sherman, Alexander Hamilton, John Dickinson, and the Pinckneys, as they denounced democracy, insisted upon property as the chief concern of society, or pronounced encomiums upon the British House of Lords. Only once during the convention did he express himself on a question of government, and then to recommend increasing the representation in the lower House, by decreasing the basis from forty to thirty thousand.¹ A momentary gleam of democracy, but only a gleam.

His real attitude is probably revealed in the fact, that after the close of the convention, having signed the Constitution, he returned to Virginia and did what he could for its adoption. And Alexander Donald writing to Jefferson late in 1787

¹ Madison's *Journal*, Hunt Ed., vol. ii., p. 397.

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says: "I stayed two days with General Washington at Mt. Vernon . . . I never saw him as keen for anything in my life as he is for the adoption of the new scheme of government."¹

The answer to the question, as to the derivation of power, is then in "We, the people." But these words, should be interpreted in the light of a conservative reaction from the democracy of the Revolutionary period. Washington believed that the nation was like the traveller on the strange road, who coming to a fork, takes the wrong road and discovering his mistake, retraces his steps until he reaches the right road, along which he travels until his destination is reached.

Fourth, under a government thus formed, with power lodged at the centre, expressed through law, and derived in a modified sense from the people, what was the danger of abuse, if any? The answer of the Constitutional leaders was, slavery. The large amount of space in the records of the debates, together with the character of the discussions makes this clear.

Slavery did not come before the convention as a new subject, the result of changed conditions. It came as an old question, which now had assumed such proportions, that it could not be kept out of

¹ *Writings of Washington*, Ford Ed., vol. xi., p. 142.

the convention. In 1776, when Jefferson presented the original draft of the Declaration of Independence, there was a clause which denounced slavery, and placed the responsibility for its existence upon King George. In the final draft as adopted by the Congress, all mention of slavery was omitted. Jefferson explains this by saying in his notes on the debate, that the clause "was struck out in complaisance to South Carolina and Georgia, which had never attempted to restrain the importation of slaves, and who on the contrary still wished to continue it." Then he adds, "Our Northern brethren also, I believe, felt a little tender under those censures: for though their people have very few slaves themselves, yet they had been pretty considerable carriers of them to others."¹ And so slavery received no attention in the Declaration of Independence.

In the same year, when John Dickinson presented the original draft of the Articles of Confederation, the eleventh article placed taxation for the purposes of the general government upon the basis of population. This raised the question whether slaves were human beings, or property, such as sheep, which called forth the significant remark of Franklin during the debate, "that

¹*Journals of Congress*, vol. vi., p. 1693.

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slaves rather weaken than strengthen the States, and there is therefore some difference between them and sheep; sheep will never make any insurrections."¹ But in the Articles of Confederation as finally adopted in 1781, the basis of taxation was shifted from population to land, and so again the question failed to receive formal attention.²

However, in 1787, the Constitutional group returned to the theory of John Dickinson in the original draft of the Articles, and based taxation upon population. This again raised the question of slavery, and as has been mentioned elsewhere, resulted in a compromise by which in the enumeration, slaves were to be counted on a three-fifths basis. Thus slavery at last received formal attention in one of the greatest, if not the greatest document of the American nation. It came into government by the side door as it were, in connection with the question of taxation and representation. Slaves were thus three-fifths human. However, it also came in by the front door of government, in Article ix, Section 9 of the Constitution, which forbade the prohibition of the importation of slaves before the year 1808, and

¹ *Journals of Congress*, vol. vi., p. 1080.

² Article xi. in the original draft is changed to Article viii. in final draft. Compare vol. v., p. 548 of *Journals of Congress* with vol. ix., p. 913.

authorised a tax of ten dollars on each one imported. And thus slaves were property.

Of course here was a situation which the Constitutional leaders did not understand. They believed that progress in government was possible only through compromise, but they did not realise the tremendous price which would be paid for this progress.

There was some sentiment against slavery on moral grounds. Gouverneur Morris said: "He would never concur in upholding domestic slavery. It was a nefarious institution. It was the curse of heaven on the States where it prevailed."¹ But this statement of the young enthusiast, was very much weakened by the suggestion he made to the effect, that he "wished the whole subject to be committed, including the clauses relating to taxes on exports, and to a navigation act. These things may form a bargain among the Northern and Southern States."² And there was sentiment against the prevailing view that slaves were property. Roger Sherman opposed the clause authorising the laying of a tax on slaves imported, "because," as he said, "it implied that they were property."³

¹ Madison's *Journal*, Hunt Ed., vol. ii., p. 112.

² *Ibid*, p. 224.

³ *Ibid*, p. 224.

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It is impossible to determine the exact position of the members on this question. Some who were personally opposed to slavery, objected to a Constitutional provision, claiming that it was a question for the States, not for the nation to decide. Some were influenced in favour of a clause prohibiting further importation of slaves, because of the conditions of their States. Maryland and Virginia at this time were overstocked with slaves. All were probably in agreement that slavery would finally disappear if time was allowed to do its work. Even Charles Pinckney from the far Southern State of South Carolina expressed this view, for he argued that, "If the States be all left at liberty on this subject, South Carolina may perhaps by degrees do of herself what is wished, as Virginia and Maryland already have done."¹

Especially is it difficult to determine the exact position of Washington on this question. It is a fact, that he approved this Constitution, which gave a negative recognition of slavery, in its clause for a three-fifths representation for a slave; the owner, not the slave, securing the political advantage of such vote; and an affirmative recognition of slavery, in extending by twenty years the period of importation and authorising a

¹ Madison's *Journal*, Hunt Ed., vol. ii., p. 219.

tax upon the slave as property. It is also a fact that Washington was himself an owner of slaves.

But over against these facts are two others. One is, that when the resolution was presented in favour of extending the time of importation, the Virginia delegation of which Washington was a member and with which, (even though presiding officer) he voted, cast its unanimous vote against the resolution.¹ Madison said at the time: "Twenty years will produce all the mischief that can be apprehended from the liberty to import slaves. So long a term will be more dishonourable to the national character than to say nothing about it in the Constitution."²

The other fact is, that Washington is on record against slavery as an institution. He said: "I hope it will not be conceived from these observations that it is my wish to hold the unhappy people who are the subject of this letter in slavery. I can only say, that there is not a man living, who wishes more sincerely than I do to see a plan adopted for the abolition of it; but there is only one proper and effectual mode by which it can be accomplished, and that is by legislative authority; and this as far as my suffrage will go, shall never be wanting."³

¹ Madison's *Journal*, Hunt Ed., vol. ii., p. 251. ² *Ibid*, p. 250.

³ *Writings of Washington*, Ford Ed., vol. xi., p. 25.

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It is impossible to harmonise Washington's views on slavery, with his personal action in keeping slaves. But in this Washington reflected the sentiment of his era. Roger Sherman objected to the thought of the slave as property, but he voted for the taxing clause in the Constitution that treated them as property. Thomas Jefferson was sure that "all men are created free and equal," but he held slaves on his plantation. Patrick Henry was extreme in his denunciation, but his black servants were too valuable an asset to be dispensed with.

The truth seems to be, that Washington and the others reached their conclusions on slavery under the influence of general philosophical theories, rather than with intense and practical moral convictions. He knew that slavery was an abuse of power in government. But this abuse after all, was like a black cloud in the distance on a summer's night, which rumbles, and flashes light, but being in the distance, its rains do not drench or its lightnings strike. Later, the cloud came nearer.

Such were the answers given by the Constitutional group, with Washington as its commanding personality, to the question of power in government. In stating the answers, the aim has been

to do so with caution and reserve, implying thereby that the answers were not given in 1787, with dogmatic certainty, but as hopeful, yet tentative affirmations, which for verification awaited the verdict of time.

There is a bit of gossip which has come down, and which illustrates the mental attitude of the men who framed the government. The great leader has been elected President. March 4, 1789, is the day appointed for the First Congress to meet. On this day, only a handful of men are gathered. Not until April 5th do enough members assemble to constitute a quorum and organise both branches. The President elect away in his Southern home becomes uneasy. What does this mean? Is the slowness of assembling due to a lack of interest in the new government? Is the formulated plan a failure before it is tried? At last word reaches him that April 30th has been set as the day for the inauguration. He starts north and on the appointed day draws near to New York. Congress is in session in the recently completed City Hall at the corner of Nassau and Wall streets. The booming of the cannon announces that the General has crossed the North River from New Jersey and will soon reach the hall. The question arises, How shall the President elect be received? Shall

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it be standing or sitting? John Adams is much excited. "Gentlemen," he said with a nervous air, "I wish for the directions of the Senate. The President will, I suppose, address the Congress. How shall I behave? How shall I receive it? Shall it be standing or sitting?" A member calls attention to the fact that in the English Parliament the members stand when the King enters. Another member takes exception to this, saying, that as they had thrown off the yoke of monarchy, all its customs should be abandoned. While they are discussing the question, the door opens; Washington enters, walks down the aisle, bowing to the right and left, and reaching the platform takes his seat.¹

Only a bit of gossip suggestive of the conditions of the nation. A stronger government had been formed. How would the people behave? How would they receive it? Would it be standing or sitting? Washington himself did not know, for on the day the convention closed he wrote Lafayette and said: "It is the result of four months' deliberation. It is now a child of fortune to be fostered by some and buffeted by others. What will be the general opinion or reception of it is not

¹ *Writings of Washington*, Ford Ed., vol. xi., p. 380, note. Also, Bassett, *The Federalist System*, pp. 7-12.

for me to decide, nor shall I say anything for or against it. If it be good, I suppose it will work its way; if bad, it will recoil on its framers."¹

And so, to bring the study of this period to a close, it may be said that the key-word is *formulation*, even as the key-word in the Revolutionary period was *protestation*. The task of this era is, how to formulate a theory of power in government, that will be an improvement upon the one against which they had protested, and which at the same time will make permanent that which they gained as the result of the protest. The group of 1787 performs this task in the Constitution of the United States; which creates a composite empire, republican in form; with a distribution of power lodged in the parts, and at the centre, derived from the people, and expressed by law.

"I was present in the pew with the President, and must assure you that after making all deductions for the delusion of one's fancy in regard to characters, I still think of him with more veneration than any other person. Time has made havoc upon his face. That, and many other circumstances not to be reasoned about, conspire to keep up the awe I brought with me. He addressed the two Houses in the Senate Chamber; it was a very touching scene and

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quite of the solemn kind. His aspect grave, almost to sadness; his modesty actually shaking; his voice deep, a little tremulous, and so low as to call for deep attention; added to a series of objects presented to the mind, and overwhelming it, produced emotions of the most affecting kind upon the members. I, Pelgarlic, sat entranced. It seemed to me an allegory in which Virtue was personified, and addressing those whom she would make her votaries. Her power over the heart was never greater, and the illustration of her doctrine by her own example was never more perfect."—May 3, 1789. Fisher Ames, *Works*, vol. i., p. 34.

The National Group of 1830¹

FORTY and more years have passed since the members of the convention signed their names to the Constitution, "in order to form a more perfect Union." From the loins of the nation a new brood has come forth, which in the maturity of its powers, has the task of defining a more *complex* Union. In this brood are such men as Andrew Jackson, the hero of New Orleans; John Quincy Adams, the old man eloquent; Thomas H. Benton, the statesman of the frontier; Martin Van Buren, the little magician of strategy; John Randolph, the political cartoonist, who used words instead of crayons; Henry Clay, the Prince Harry of the West; Daniel Webster, a small cathedral in himself; Robert Y. Hayne, a strong thinker and debator, but overshadowed by a stronger; and

¹ The year 1830 is arbitrarily selected as a matter of convenience. There is no single event such as the Treaty of Paris in 1763, the Declaration of Independence in 1776, the Constitution in 1787, or the Inauguration of Lincoln in 1861, which serves as a pivot upon which swing the events of the era. 1831 might as well have been selected.



John C. Calhoun, in the grip of a great but mistaken idea.

The personnel of this group is unlike that of 1787, in that it has no member of unchallenged leadership. There are great leaders in this group, who compare favourably in mental equipment with Hamilton, King, Wilson, and Madison of the earlier group.¹ But there is no Washington here. It is impossible to think of the leaders of 1830 coming together, selecting one of their number, and turning to him as did the leaders in 1787, when they turned to the great Virginian, and recognised in him the commanding personality of the era.

Again, the composition of this group, in its representative character, is more varied than that of the earlier period. Then the leaders looked with distrust upon the newer sections of the country. They were quite sure that the welfare of the nation depended upon the superior intelligence of the older portions. Said one of the convention: "Among other objections it must be apparent they would not be able" (referring to the West) "to

¹ With such leaders at his elbow it is difficult to understand how De Tocqueville could jot down in his note book: "The race of American statesmen has evidently dwindled most remarkably in the course of the last fifty years."—*Democracy in America*, Bigelow Ed., vol. i., p. 209.

furnish men, equally enlightened, to share in the administration of our common interests."¹ The man who made this remark, with the apparent approval of the others, would have been surprised, had he been living in 1830, to see in the White House, a leader from the wild frontier of Tennessee, and as the acknowledged leader of Congress, a statesman from the land made romantic by the exploits of Boone. The political centre of gravity was shifting.

Another change is noted, as the work of this group is studied. There is no single document in which the thought of the era culminates, as does the thought of the Revolutionary era in the Declaration of Independence, and that of the Constitutional era in the Constitution. The mistake must however, not be made of assuming that the era is commonplace. At first blush, this would seem to be the fact. A period in which no leader towers above the others, and the consensus of thought does not finally result in some unique State Paper, is usually considered ordinary.

But the student will not so interpret these years. And the reason for this is, that the conditions of 1830, are so unlike those of 1787, that the task of relating the government to these conditions,

¹ Madison's *Journal*, Hunt Ed., vol. i., p. 335.

gives to the era a deep meaning. Tendencies have been at work since the Constitutional convention adjourned, which in the passing of the years, form a new nation. And the question is, Can thenation as formed in one era under certain conditions, be defined in this era, under changed conditions?¹

In order to understand this task of defining a more complex Union, let us consider some of the changed conditions which make the Union more complex. First, there is the change due to territorial expansion, carrying with it increase in population. By the purchase of Louisiana in 1803, the seizure of West Florida in 1810, and the acquisition of East Florida in 1819, the area has increased from 820,377 square miles to 1,754,622 square miles. The population has grown from 3,929,625 in 1790, to 12,866,020 in 1830.²

This doubling of the area, and more than trebling of the population, raises the question, whether a government based upon a Constitution written a generation before possesses enough strength to reach forth over this expanding area and hold it together.

¹ The writer has omitted the events of the War of 1812, and those of the years immediately following, which constitute what Shouler calls the "Era of Good Feeling;" because they do not concern the thesis of this study.

² "A Century of Population growth," *U. S. Census*, pp. 54, 55.

Some, taking counsel of their fears, are quoting the words of Montesquieu, that "It is natural for a Republic to have only a small territory; otherwise it cannot long subsist."¹

Others are reading Hamilton's and Madison's arguments in *The Federalist*, in which they assert that the peculiar merit of the republican as distinct from the democratic form of government is, that it is adapted to large areas and great populations.²

Doubtless, the French historian would have been less cautious, had he foreseen the composite empire, republican in form, which came into existence in 1787. And probably the daring imperialists would have been more cautious, had they seen the vast area and population of 1830, with the fabled god Terminus on the top of the Rockies, and looking westward to the Pacific. Here indeed is a reminder of the question of empire in 1763, and of the protest made in 1776 against the answer given. How shall imperial control be extended over a vastly increased domain, and according to the system outlined in the Constitution?

While the people are taking counsel of their fears, because of the vast territorial expansion and

¹ Montesquieu, *The Spirit of Laws*, Book viii, section 16.

² *Federalist*, No. 9 and No. 10, Hamilton in No. 9 quotes Montesquieu.

increase in population, another change comes as the result of the application of steam as motive power. The leaders of the nation saw at an early date that a composite empire was conditioned upon physical cohesion as well as upon similarity in government through federal enactment. A national domain might be created, and from this domain States might be formed, but the distance that separated this domain from the Sea-Board States and accentuated the intervening mountain ranges, was great. And so as the population moved into the West and South-west the agitation began for roads and canals. The most ambitious undertaking of this sort on the part of the Federal government was the Cumberland Road, and on the part of a State government, the Erie Canal.

No sooner, however, was this work well under way in the nation and States than steam as a motive power is recognised and applied. It first appears in the steam-boat that plies the river and lake, and later in the iron horse that rumbles down the metal roadway.¹ It is next to impossible to over-estimate the influence of this great discovery upon

¹ These railroads followed instead of crossed the lines of latitude. The notable exception to this was the Illinois Central Railroad, which became a political issue in the decade beginning with 1840. The significance of this in the later sectional struggle is apparent.

national life. The material prosperity of the people is enhanced, for by the use of steam the produce and products of distant markets are moved freely. In a sense, perhaps not intended by the prophets, "the wilderness begins to blossom as a rose," under its magic touch. The provincialism which threatens the people in different portions of the land, is modified by the easier interchange of the products of the farm, the commodities of the city, and the encouragement offered to travel. The Constitution is made to take on a larger meaning, as the possibilities of the "commerce clause" are discovered by a Court, which in these years makes as well as interprets law.¹ The famous example of this is the decision in *Ogden vs. Gibbon*, called forth by the steam navigation of the Hudson River.

But more important than all these results, or rather working through these results, a national unity is made real and effective. For the pathways ploughed in the waters by steam-boats, and the trackways made of rails along which steam-trains moved on land, are to the nation in its parts, as the nervous system is to the parts of the human body. It is no idle phrase that is used when, it is

¹ There is an interesting discussion of this question of power in government as drawn forth by the fact of steam as a motive power, in Goodnow's, *Social Reform and the Constitution*, chap. ii.

said, that freedom through a national government was conditioned upon the advent of steam, harnessed to move passengers and freight. And there is a glorious symbolism in the fact, that the corner-stone of the first railway uniting the East with the West was laid by Charles Carroll, the venerable signer of the Declaration of Independence.¹

Splendid as is the reasoning of Hamilton, in *The Federalist*, in favour of a republican form of government as best adapted to vast areas and large populations, it is not strong enough to convince the modern mind that this nation could have held together and grown in national consciousness, apart from the introduction of a mechanical force which he did not and could not appreciate. Interstate citizenship now found expression in interstate commerce, as made possible by steam as a motive power.

Another change to be noted in the period under review was primarily sectional. At this time, King Cotton was waving his golden sceptre, and States in a section of the Union were yielding to his sway. Washington, as he presided over the debates of the Constitutional convention, and announced the votes on slave importation and

¹Turner, *Rise of the New West*, p. 292.

representation, quieted his conscience with the thought that time, regardless of man's legislation, was on the side of the slave. But in this he was mistaken. For now after the lapse of a generation, slavery seems forever established in the Union. There are few years more tragic and confusing than those in the last quarter of the 18th century. A poet somewhere has a line to the effect, "That truth if loosed will hurl the world's course right." Against this splendid line another might be placed which would read, "The forces of man if loosed will hurl the world's course wrong."

If the ear of man could have caught all the sounds on the 17th of September, 1787, it would have heard the scratching of quills on paper in the convention hall at Philadelphia for the making of a "more perfect Union" and the sound of hammers in machine shops in England for the making of a less perfect Union. For Arkwright, Hargreaves, and Cartwright, in perfecting the loom, spinning-jenny, and factory system, unconsciously hit the Union a staggering blow.

By these inventions, the capacity of the mills for cotton enormously increased. Suddenly, these mills loomed big on the shore of the Old World and, as a hungry giant, called for more food. And the growers of long staple cotton on the tide water

plantations of the New World, could give this industrial giant but a few crumbs.

But, as if there was a mysterious conspiracy on the part of the forces of man, the Yankee school-teacher, Eli Whitney, in 1793, by his invention of the cotton-gin, made it possible to feed the giant loaves instead of crumbs. For by this device it became profitable to raise the short staple cotton on the higher lands inland.

The effect of this in changing the entire situation was soon perceptible. Slavery assumed proportions hitherto undreamed of. The annual yield of cotton increased from two million pounds in 1791, to four hundred and fifty-seven million pounds in 1834.¹ And with this enormous increase there went a vast expansion of acreage, and a corresponding increase in the value of slaves.

This economic development vitally affected the moral aspect of slavery. The honest, but complacent, theory of elimination by time gave way to the rather casuistical theory of mitigation by scattering. Men were not ready to defend slavery on biblical grounds; that was to come later, but they were quite sure that the evil could be lessened by spreading it out over the nation. As one of the leaders in the debate on the Missouri Compromise

¹ Turner, *Rise of the New West*, p. 47.

in 1820 said: "Will you let the lightnings of its wrath (referring to slavery) break upon the South, when by the wise interposition of a system of legislation you may reduce it to a summer's cloud."¹ Here, through economic development, was the old question of the parts in a section of the empire, gradually drawing together through a common interest, to contend against imperial control over the whole empire.

Still another change was due to the growth of democracy. This change while not appreciated at its full significance, was really the opposite of the sectional change, and in the future would prove to be the determining factor in asserting the powers of the empire over a section of it. For the sectional change while due to economic causes, was in spirit an aristocratic movement. Curiously, at the very time this sectional change was taking place, the influence of the "well-born" in government was diminishing, and the influence of the "filthy democrat" was increasing. To paraphrase a witticism of the day, a self-conscious democracy was abroad in the land, that refused to wear a high hat, lest by so doing, it would wear a crown on its head and thus seem to squint at monarchy.

It is not much, if any, exaggeration to say, that

¹ *Annals of Congress*, 16 Cong., 1 session, p. 1025.

Washington believed in a republican form of government based on the aristocracy of land. To be sure, the aristocracy of land prevailed in the Revolutionary period, but to make this more stable, the republican form was established in the Constitutional period. The clause in the Constitution, "We the people of the United States," as suggested in a previous chapter, meant that only those owning land had a voice in the government. The result was that in 1787, about one half of the adult male population of proper colour could vote. And to secure the stability of a national government based upon even this restricted democracy, it was planned as Madison said, that all popular appointments should be "refined by successive filtrations."¹ Among the appointments which were to pass through such filtration was that of the President. He was to be chosen by electors, selected by the Legislatures of the States. But the conditions under which this election should take place were such, that probably the final choice would be made by the lower branch of Congress, where the members were to vote by delegations, each State having one vote. Surely this was filtration!

However, two things happened which the Con-

¹ Madison's *Journal*, Hunt Ed. vol. i., p. 42.

stitutional leaders did not anticipate. One was the rise of political parties, and the other was the extension of the franchise. The rise of political parties necessitated the XIIth Amendment to the Constitution. And by successive stages, the selection and election of the President passed into the direct control of the people. And to further emphasise this democratic tendency, the States during this period removed many of the limitations on the franchise, and about the time the national political conventions came into existence, that is, in 1830, manhood suffrage was general. James Wilson in one of the debates on the Constitution said: "He was for raising the Federal pyramid to a considerable altitude, and therefore wanted the base as broad as possible."¹ Profoundly democratic as the great Scotsman was, he probably would have rubbed his eyes with wonder, had he seen within almost a generation, the base of the pyramid thus enlarged. Here was an advanced conception of political freedom, gaining the ascendancy in the nation as a whole; which was destined to work for the unification of the empire, even as in earlier days it had worked for the dismemberment of the old empire.

These are the four changes which give to the

¹ Madison's *Journal*, Hunt Ed., vol. i., p. 41.

year 1830 its profound significance; changes which Washington and others of his day did not and could not foresee. But along with these changes, and working through them, were two tendencies which came down as a legacy from the past. The one was the centrifugal tendency, that is, the throwing out of power from the whole at the centre to the parts on the circumference. The other was the centripetal tendency, that is, the drawing in of power from the parts on the circumference to the whole at the centre.

During the Revolutionary period, the centrifugal tendency was the stronger. In the Constitutional era, the centripetal tendency gained enough of an ascendancy, to insure the adoption of the Constitution, although the ascendancy was slight, as seen in the struggle of the State conventions. A typical illustration of this is found in the experience of Alexander Hamilton in the New York convention which met at Poughkeepsie. A friend inquired of him one day what the chances of adoption were. He answered, "God only knows. Several votes have been taken, by which it appears that there are two to one against us." And then he added, "The convention shall never rise until the Constitution is adopted."¹ And what Hamil-

¹ *Works of Alexander Hamilton*, J. C. Hamilton, vol. iii., p. 522.

ton met with in New York, and Rufus King in Massachusetts, James Madison also found in Virginia.

It was, however, apparently the belief of Washington, that as soon as the Constitution with its ten Amendments should be adopted, this controversy would cease, but in this he was mistaken. The new government had scarcely been formed, when the controversy broke out afresh, and continued with unabated force through the years, to reach an acute stage in the National era.

As this struggle between the two opposing tendencies is traced, it is interesting to notice the line of demarcation. The dominant word in the centrifugal tendency is "compact." The dominant word in the centripetal tendency is "Union." The emphasis in one is upon the States forming the Union. The emphasis in the other is upon the Union as formed by the States. Each tendency insists upon its loyalty to the Constitution. But in proving this loyalty, those who see the States, quote more often the Xth Amendment which says: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people." Those who see the Union of the States quote more often the last

clause of Section 8, Article I, which reads: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States or any department or officer thereof."

In using thus the words of the Constitution, those favouring the centrifugal tendency, insist that in the grant of power, all power not granted was withheld. Those favouring the centripetal tendency, insist that all power not withheld, (although they might hesitate to state it,) was granted. But behind these theories of government was the question, as to where the final interpretation of the instrument of government rested. The men who emphasised the compact theory, declared that it rested with the States. The men who emphasised the Union, declared that it rested with the Supreme Court.

If the two tendencies were old, reaching back into the Revolutionary era, this question of final authority was of necessity new. For some reason not made clear in the debates of the convention the Constitution as adopted did not raise this question, although Hamilton, in *The Federalist* insisted that it belonged to the Supreme Court.¹

¹ *Federalist*, No. 78.

However, Hamilton's contention was not accepted by all. And so, as the history of the years between 1787 and 1830 is read, it is noted that many States asserted the right to determine the meaning of the Constitution.

The form which this assertion took varied. Sometimes it was a conflict between the sovereign State and the Federal Judiciary, as seen in the attitude of Georgia in the Chisholm case in 1792, Pennsylvania in the Olmstead case in 1809, and Ohio in the Bank case in 1820. Again it was a conflict between the State and Congress, as seen in the Kentucky and Virginia resolutions of 1798 regarding the Alien and Sedition laws, and the Massachusetts and Connecticut resolutions of 1809 against the Enforcement Act of the Embargo. Still again it was a conflict between the State and the National Executive as revealed in the Hartford Convention of 1814, on the question of calling out the militia.¹ But whatever form the tendency took, it was always the parts forming the whole, as over against the whole as formed by the parts. And the parts acting severally, and therein was the weakness of the tendency, asserted the right to pass upon the constitution-

¹ For the documentary statement of this contest, the reader is referred to, Ames, *State Documents on Federal Relations*.

ality of the acts of the whole. This was the centrifugal tendency.

But over and against this tendency must be placed the working out of the centripetal tendency, as seen pre-eminently in the career of one man.¹

About the time Washington started from Mt. Vernon to become President, he left behind in his native State, a young man named John Marshall. After serving his country in the army, in the State Legislature, in Congress, and as Secretary of State, Marshall was elected by John Adams to be Chief Justice of the Supreme Court. During the thirty-four years thereafter came a series of masterly decisions based upon a construction of the Constitution the purpose and effect of which was to accelerate the centripetal tendency in government.

In 1803, in *Marburg vs. Madison*, Marshall declared that the Supreme Court had authority to declare null and void the Acts of Congress. Law-making was limited by the Constitution, and the Supreme Court was to interpret the Constitution. In *Martin vs. Hunters Lessee*, in 1813, he declared the right of the Supreme Court to enforce

¹ It is interesting to notice, that Marshall became Chief Justice at about the time Jefferson became President. Almost the last official act of John Adams was the appointment of Marshall. It is a fine illustration of the Hegelian philosophy of history.

its decisions in the States, even though the State courts had rendered opposite decisions. The Supreme Court in cases arising under the Constitution was final in all States. In the Dartmouth Case in 1818, he asserted the right of the Supreme Court to set aside State legislation that was contrary to the Constitution. In 1819, in *McCulloch vs. Maryland*, he declared the doctrine of implied powers as distinct from literal or strict construction. In *American Insurance Co. vs. Canter*, in 1828, he argued that the Federal government had the right to acquire territory either by treaty or conquest.

As these decisions are studied, and the layman may study them, for they are addressed to the mind of man, not to the legal training of lawyers, the outstanding fact is that they enunciate a doctrine of government the opposite of that enunciated by such a man as Jefferson. Here is a pronounced consolidating tendency. Jefferson perceived this and feared it. In 1820, he wrote: "They are construing our Constitution from a co-ordination of a general and special government to a general and supreme one alone."¹ Again in 1821, he wrote: "The great object of my fear is the Federal Judiciary. That body, like gravity ever

¹ *Writings of Jefferson*, Ford Ed., vol. x., p. 170.

acting with noiseless foot, and unalarming advances, gaining ground step by step, and holding what it gains, is ingulphing insidiously the special governments into the jaws of that which feeds them."¹

The decisions of Marshall have stood the test of time, and are in a sense a part of the fundamental law of the land. But this was not so in 1830. Men not only questioned the correctness of these interpretations of the Constitution, but questioned also the right of the Supreme Court to make them. And it is this fact, that gives to the era of 1830 its profound significance.² The time had come to pause and define the government. It is said that as Gouverneur Morris was leaving the convention hall in 1787, a friend remarked, "that a good Constitution had been made." His reply was, "that depends upon how it is construed."³ And this is precisely the situation in 1830. Amid the vast changes in the nation, as seen in territorial expansion, sectional growth,

¹ *Writings of Jefferson*, Ford Ed., vol. x., p. 189.

² Webster writing to Clay, October 5, 1832, says: "Not only the tariff, but the Constitution itself, in its elemental and fundamental provisions, will be assailed with talent, vigour, and union. Everything is debated as if nothing had ever been settled." Schurz, *Henry Clay*, vol. i., p. 348.

³ Gordy, *Political Parties in the United States*, vol. i., p. 114.

and democratic consciousness, the question was how should the Constitution be construed. And in construing it, the question would be answered, whether it was a good Constitution.

Having noted the changed conditions in the nation, and examined the two opposing tendencies struggling for mastery in government, the question now arises, what was the real problem that confronted the National group in 1830? There can be but one answer to this question, namely, the old problem of power in government. The same problem that confronted the Parliamentary group in 1763, the Revolutionary group in 1776, and the Constitutional group in 1787. And as the problem came to the front in the preceding eras, because of vast change, so it reappeared in 1830.

There is an interesting experience related in connection with the famous Lewis and Clark expedition, which began in the spring of 1804, and ended in the autumn of 1806. After journeying for months up-stream in a batteau and two pirogues, the men, forty-five in number, came to the falls of the Missouri in Montana. Here it was planned to use a smaller and lighter boat, the iron framework of which had been made in the East before starting. So covering the framework with skins, the boat was placed in the water, but alas,

it would not float. After experimenting with other coverings the boat was abandoned, and sailing in small canoes, the party pushed westward and reached the Pacific Ocean.¹ Something of this sort was true in 1830. Years before the Constitution in its framework had been made. The nation had pushed forward and found itself in new conditions. Would the Constitutional framework float? Or would it be necessary to enter as many canoes as there were States in order to continue the journey? Let us now with 1830 as a starting point, consider briefly some of the answers given to these questions.

First, what was the attitude of Daniel Webster with respect to the lodgment of power? On the morning of January 26, 1830, Webster, walking up Pennsylvania Avenue to the capitol, met Senator Bell of New Hampshire who remarked to him with great feeling: "Mr. Webster it is time, high time that the people of this country knew the meaning of the Constitution." "Then," replied Webster, "by the blessing of heaven, before this day ends they shall know what I understand it to mean."² If tradition is trustworthy, the great statesman upon reaching the Senate chamber found it

¹ *Journals of Lewis and Clark Expedition*, Thwaite Ed., vol. ii., p. 217.

² H. C. Lodge, *Webster*, p. 178.

crowded, and on the wrong side of the door he saw Senator Dixon of Alabama, who weighing about four hundred pounds, had found it impossible to reach his seat, and so settling down like a Dutch sloop stuck in the mud at low tide, had cut a hole in the door, that through it he might look and listen, as the debate continued. But Webster, contrary to the popular impression, not being a large man, was able to work his way through the crowd and reach his seat.

He was here prepared to continue the debate which began on December 29th with the introduction of a resolution regarding the sale of public lands.¹ On January 19th, Senator Hayne of South Carolina had opposed the resolution. This called forth a reply from Webster on the next day. On the 21st, Hayne rising to reply to Webster remarked that, "he would not deny that some things had fallen from that gentleman which rankled here (touching his breast) from which he would desire at once to relieve himself. The gentleman had discharged his fire in the face of the

¹ This famous controversy is given in full in the *Congressional Debates*, vol. vi., part 1. The resolution of Foote, which introduced the controversy is on p. 3; the formal speech of Hayne on January 19th and 25th is given, pp. 43-58; the reply of Webster on January 26th is found on pp. 58-80; and the answer of Hayne on January 27th is on pp. 82-93.

Senate. He hoped he would now afford him an opportunity of returning the shot." Webster replied, "I am ready to receive it. Let the discussion proceed." Hayne spoke on this day, and again on the 25th, when he finished his speech.

His argument was one in favour of the centrifugal tendency. In substance he contended that the States, under the theory of compact, had the right to determine whether the central government, through the laws of Congress, went beyond the power delegated to it by the Constitution. As he said: "The States may lawfully decide for themselves, and each State for itself, whether in a given case, the act of the general government transcends its power." This was but a brilliant exposition in oratorical form of Jefferson's contention in the Kentucky Resolutions of 1799 when he said: "The several States which formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction; that a nullification, by those sovereignties, of all unauthorised acts done under colour of that instrument is the rightful remedy."¹

And now Webster arose to reply. It is useless to attempt a description of the scene. The exultant Southern leaders proud of their champion's

¹ McDonald, *Select Documents*, p. 152.

effort; the keen and penetrating expression on the face of the presiding officer; the anxious attitude of Northern men, who wondered whether such an argument could be answered; and finally the black-visaged statesman, whose head seemed as massive as the granite rocks amid which he was born, and whose eyes were as "anthracite furnaces needing only to be blown."¹

And the speech itself with its superb exordium, which was like the loosening of the strings of the bow of a violin, that later they might be tightened and produce exquisite music; the magnificent eulogy of his adopted State, which brought tears from the sons of Massachusetts; the mingling of sarcasm and denunciation, which as one said who

¹ "Not many days ago, I saw at breakfast the notablest of your notabilities, Daniel Webster. He is a magnificent specimen. You might say to all the world, 'This is our Yankee Englishman; such limbs we make in Yankee Land!' As a logic fencer, advocate, or parliamentary Hercules, one would incline to back him at first sight against all the extant world. The tanned complexion; that amorphous crag-like face; the dull black eyes under the precipice of brows, like dull anthracite furnaces needing only to be blown; the mastiff mouth accurately closed; I have not traced so much of silent Bersiker rage that I remember in any man. 'I guess I should not like to be your nigger!' Webster is not loquacious, but he is pertinent, conclusive; a dignified, perfectly bred man, though not English in breeding; a man worthy of the best reception among us, and meeting such I understand."—Carlyle to Emerson, June 24, 1829. *Correspondence*, Norton Ed., vol. i., p. 260.

listened, made "thunder and lightning seem as peaches and cream in comparison"; and the matchless peroration which closed with the words, "Liberty and Union now and forever, one and inseparable."

But what of the argument? How does he meet Hayne's contention of power lodged in the States? It is interesting to notice that both Hayne and Webster differ from Madison as to the lodgment of power. Madison claimed that the power in government was divisible—some in the States, and some in the Union of the States. But Webster and Hayne insist that the power is indivisible. Hayne contending that the Union was but an agent of the States, the indivisible power, derived from the people, being lodged in the States. Webster contending that the indivisible power, derived from the people, was lodged in the Union, and therefore the Union possessed a power independent of the States. And even as Hayne gave a brilliant exposition of Jefferson's position in the Kentucky Resolutions, so Webster in this contention was giving popular and classic expression to Marshall's reasoning as embodied in his decisions from the bench.

The great jurist, in *Cohens vs. Virginia*, in 1821, had said: "The people make the Constitution,

and the people can unmake it. It is the creature of their will and lives only by their will. But this supreme and irresistible power to make or unmake resides only in the whole body of the people; not in any subdivision of them. The attempt of any of the parts to exercise it is usurpation, and ought to be repelled by those to whom the people have delegated their power of repelling it.”¹ Webster takes this thought of power as lodged, and so uses it as to furnish the nation a text book which in after years it will read. He responds to the old toast, “Another hoop for the barrel or more cement for the Union,” and answers as Washington had answered, only with more assurance, “More cement for the Union.”

Second, Andrew Jackson, John C. Calhoun, and Henry Clay, and the expression of power. All three were from the South, counting Kentucky as southern, although at this time it was more western than southern and two of them had been born in South Carolina. At this time Jackson is in the White House. Calhoun is presiding officer of the Senate, and Clay is the leader in Congress. The man in the White House is the great contradiction of American history; the officer of the Senate its great misapplication; the leader of

¹ 6 Wheaton, p. 265.

Congress its great disappointment. They constitute the Southern triangle of the era. And as the points of a triangle are equally distant, so these men in temperament and training are apart. Jackson is honest but brutal; Clay, suave but magnetic; Calhoun, logical but quietly passionate.

These men come together to answer the question as to the expression of power in government. Congress on May 13, 1828, passed a Tariff Act known as the "bill of abominations." John Randolph caricatured this by saying that, "the bill referred to manufactures of no sort or kind, but the manufacture of the President of the United States."¹ Following this, and in the same year, Calhoun wrote his *Exposition*, which was the arsenal from which Hayne drew his forensic ammunition on lodgment of power as mentioned. On July 14, 1832, Congress passed a new Tariff Bill which reduced somewhat the duties but retained the protective feature. On November 24, 1832, a convention authorised by the Legislature met in South Carolina and passed the "Ordinance," to nullify "certain acts of the Congress of the United States, purporting to be laws, laying duties and imposts on the importation of foreign com-

¹ Taussig, *Tariff History of the United States*, p. 101, note.

modities." And further to "declare null and void, and no law, nor binding upon their State, its officers or citizens,"¹ the Tariff Acts of 1828 and 1832. It also set February 1, 1833, as the time for this to go into effect. So much for the bare statement of facts.

Here was a new and startling situation. A single State in the Union raising its arm in defiance of the whole Union as represented in its legislative body. The fact that a State presumed to pass upon the constitutionality of a law was not new. The further fact that a State threatened to nullify a national law within the State was not new. But never before had a State proceeded in the orderly way of calling a convention, and in the definite manner of naming a date. There might as Calhoun insisted, be nothing in this position that was not in the Virginia and Kentucky Resolutions, although Madison in old age came forth from his retirement to deny Calhoun's claim.² But the two States in 1798 did not go beyond a statement of opinion. South Carolina asserts its determination to act. Surely something must be done.

The eye of the nation turns from the "thinking machine" of Fort Hill to the grim old soldier who

¹ MacDonald, *Select Documents*, p. 208.

² *Writings of James Madison*, Hunt Ed., vol. ix., p. 341, ff.

is now President. What will he do? At the celebration of Jefferson's birthday on April 13, 1830 in Washington, he had startled and thrilled the company by proposing the toast, "Our Federal Union; it must be preserved!"¹ Away at the "Hermitage" in 1832, he had watched the proceedings of the South Carolina convention, and intimated to the Secretary of the Navy, that it would be well to keep in touch with Charleston. And finally on December 10, 1832, he issued his "Proclamation," the longest state paper in American history. But if the words are many, and some of the sentences soft, beneath the language is the hard fist of "Old Hickory," asserting his determination to uphold the law of Congress in every State of the Union. And if necessary, he adds privately, but officially, he will march two hundred thousand soldiers into the State of Calhoun and Hayne.² "The country," to use his apt simile, "was like a bag of meal with both ends open. Pick it up in the middle or endwise, it will run out. He was prepared to tie the bag and save

¹ At this banquet Calhoun followed Jackson with the toast; "The Union: Next to our liberty most dear: may we all remember that it can only be preserved by respecting the rights of the States, and distributing equally the benefit and burden of the Union." Parton's, *Life of Jackson*, vol. iii., p. 283.

² Gaillard Hunt's, *John C. Calhoun*, p. 178.

the country.”¹ The strong arm of the Union is raised to meet the arm of a State.

What will happen? was the question being asked on every hand. South Carolina in apparent hesitation extends the day for action to March 1st. In this crisis Henry Clay comes to the front and takes command of the situation in Congress. After conference with Calhoun, he arises in the Senate on February 12, 1833, and asks permission to introduce a bill to modify the tariff. By this procedure he balances with compromise, the force threatened by Jackson, although the day before the bill passed, the Force Bill based upon Jackson's Proclamation became law.²

Much speculation has been indulged in as to whether South Carolina or the Federal government won in this controversy. The answer is, neither. The State threatened to secede and did not; Jackson threatened to use force and did not. A compromise was effected. The speculation recalls the words of the philosopher who said “he would as soon be dead as alive.” And when some one asked him why he did not die, he replied, that he “would as soon be alive as dead.” So with the Union and the State. The question as to the

¹ Parton's, *Life of Jackson*, vol. iii., p. 462.

² *Congressional Debates*, vol. ix., part 2, p. 1903.

expression of power in government had arisen, and the old answer had been given, "through law, in the spirit of compromise, if possible, by force when necessary."

Third, William Lloyd Garrison, and the abuse of power. Government is something more than a state paper, with officials elected to enact laws or appointed to interpret them. The movements that are beyond formal legislative or judicial action are sometimes the most potent. Daniel Dulany was only a private citizen in 1765, when he wrote his great argument on taxation and representation, yet William Pitt, in 1766, held a copy in his hand, from which he quoted in making his famous speech in Parliament in opposition to the ministry. Tom Paine was never a member of the Continental Congress, yet, in 1776, he wrote the pamphlet which made imperative the act of the Congress in issuing the Declaration. *The Federalist* was but one of many collections of papers published in America at the time, and its contributors signed other than their true names, yet this collection of papers turned the tide in favour of the Constitution in 1787.

So, in 1830, the strongest answer to the question as to the abuse of power was given by one beyond the official circle. As if feeling the sense of fitness,

this answer, which was in spirit a protest, was given in the old storm-centre of the Revolutionary period, the city of Boston. And further to emphasise the sense of fitness, this answer was given by a man who did his work within a stone's throw of the famous State House in which Sam Adams had spent so many thrilling and protesting hours, on the corner of Water and Congress streets in Boston.

On January 1, 1831, Garrison began giving his answer through a publication called *The Liberator*.¹ The conditions under which it was published were not promising. Type was borrowed from one shop, and a press was used in another shop. And the paper was mailed out from a low, dingy room under the eaves of a structure called the Merchants Building. In its mechanical make-up the paper was not very imposing. It measured nine and a quarter by fourteen inches, had four columns to a page, and four pages to a number. The editor and printer was poor, unknown, erratic, having no political affiliation, and without a country, for he had voluntarily read himself out of the Union. But, as Lee said of Tom Paine, "he had

¹ See *William Lloyd Garrison, the Story of His Life Told by His Children*, vol. i., chapter viii., for detailed account of publication of *The Liberator*.

genius in his eyes." And at the head of the first page of his little sheet he said something which few noticed at the time, but which makes pretty good history to-day. This is what he said: "I shall strenuously contend for the immediate enfranchisement of our slave population—I will be as harsh as truth and as uncompromising as justice on this subject—I do not wish to think, or speak, or write in moderation—I am in earnest—I will not equivocate—I will not retreat a single inch, *and I will be heard!*" And thus it was that the little sheet slipped out into the world to a few hundred subscribers.

It may seem incongruous to pass from Webster, Jackson, and Clay to this unknown man. But history as read to-day justifies the connection. The National period cannot be understood without counting in the slavery agitator and his little paper. His printing-press began to rumble, and, by and by, the foundation of the capitol shook. He placed his small white sheet with its black ink over against the vast white cotton fields with their black slaves. He challenged the economic development of the South, and halting King Cotton as he stalked down the national highway, struck from his hand the golden sceptre of power. He looked at Frederick Douglass for the first time, and

raising his voice so that the North and South were compelled to hear, he asked, "Am I looking at a thing, at property, or at a human being?"¹

Some great movements in history, like big rivers that sweep across continents, have small beginnings. This beginning in the print-shop was small enough, but its ending was great enough. The fact is, this man and the movement he represented snatched the loosened strands of American tradition which began at the Hall of Independence, and saved the web of its history. From his dingy room he put a lever under slavery, and lifted the black man from the lower level of philosophical debate in the Constitutional convention to the higher level of moral imperative in the abolition agitation. And to this abolition propaganda belongs the credit of having seized upon the noble impulses that at times warmed the hearts of Patrick Henry, Thomas Jefferson, and James Madison, and of having hurled them at the conscience of a nation. This cause, which Garrison represented, repeated the question that Washington asked, namely, What is the abuse of power in government? But it did what the great leader

¹ See *William Lloyd Garrison, the Story of His Life Told by His Children*, vol. iii., p. 19.

failed to do: it made the people answer, and ultimately answer in no uncertain tone—"slavery."

Fourth, what was the source of power in the opinion of John Quincy Adams? Let us now return to the capitol of the nation. Something strange is happening. A great American is about to be born again, politically. Look at him for a moment. At the age of seven, he is on his father's porch at Braintree listening to the guns at Bunker Hill. At fourteen, he is in St. Petersburg as secretary to the American minister. At twenty-seven, he is himself the minister to Holland. At thirty, he is minister to Prussia. At thirty-six, he is a member of the United States Senate. At forty, he is again in Russia as minister. At forty-five, he is one of the commissioners at the Treaty of Ghent. At forty-eight, he is minister to Great Britain. At fifty, he is Secretary of State. At fifty-eight, he is President of the United States. At sixty-two, going into retirement, he writes in his diary that "the sun of his life is setting in the clouds of gloom." Two years pass. One day the old man (for men were old long before sixty in those days), receives a delegation of farmers and neighbours, who come to ask him to run for Congress. They hesitate, not sure how an ex-President will receive such a suggestion. He detects their hesitation,

and assures them that such a suggestion will be kindly received. And then he adds words that must never be forgotten while the Republic endures. He says: "Nor in my opinion would an ex-President of the United States be degraded by serving as a Selectman of his town, if elected thereto by the people."¹ And he is elected, not Selectman, but member of Congress, taking his seat in December, 1831. Such in a few words is the career of John Quincy Adams.

As he takes his seat in Congress, which gives him his opportunity, two things happen. First, from the South comes a demand for the annexation of Texas, thus reopening the ugly question of slavery, which had remained closed since the Missouri Compromise of 1820. Second, in the North, the first pebbles of agitation are being dropped by the abolitionists in the waters of the nation, and the ripples of petition are beginning to wash against the walls of Congress.

The leaders from the South, supported largely by the leaders from the North, say that these petitions shall not be received. Later, they say these petitions may be received, but must be

¹ *Memoirs of John Quincy Adams*, vol. viii., p. 239. It is useless to write of American history for this first half of the 19th century without reading these remarkable *Memoirs*.

rejected without discussion. But no, says Adams, they shall be received and discussed. Then begins a debate which continues for a decade, and which for bitterness has no parallel in our history.

What is the meaning of this debate? The mistake must not be made of assuming that it was mere passion and selfish interest pitted against reason and unselfish devotion. This was the splendid noonday hour of intellectual leadership for the South in Congress. One day in 1833, Calhoun is answering Webster, and John Randolph, who is listening, notices a hat on the desk in front which interferes with his view of the speaker. "Remove it," he exclaims; "I want to see Webster die muscle by muscle."¹ There were great men from the South, who, many supposed, could mentally annihilate such a giant as Webster. And yet these men deny the right of petition regarding slavery in the District of Columbia.

How can this be explained? The answer is, that a conception of government which prevailed in the Constitutional period is given a direction which the leaders of that period could not anticipate. This theory, which has been mentioned, was that the end of society, in organised government, is the protection of property. In 1830, the

¹ Gaillard Hunt, *Calhoun*, p. 184.

Southern leaders planted themselves firmly on this conception. They said, the end of society is the protection of property; slaves are property under the Constitution; agitation against slavery is agitation against property—therefore these petitions shall not be received.

Of course they do not deny all right of petition, for they know this is guaranteed by the First Amendment to the Constitution. But they know that such right is qualified to the extent that no petitions are allowable that are disrespectful or contrary to the Constitution. And they argue that petitions against slavery are disrespectful because against property, and slaves are property, and the Constitution exists for the protection of property.

Now glance for a moment at Adams. He is not an agitator, or reformer, or even an abolitionist, but a profound, fearless, constitutional statesman. He stands by the Constitution as he understands it. He says: "I hold this resolution [the gag-law] to be a violation of the Constitution of the United States, of the rules of the House, and of the rights of my constituents."¹ He knows that if this is a government deriving its power from the people, then the people have not only the right to choose

¹ *Memoirs of John Quincy Adams*, vol. ix., p. 287.

their servants, but the right to influence them after chosen. It is the democratic spirit pushing for recognition. He does not deny that under the Constitution property has rights. But he says, what James Wilson alone said in 1787, "The rights of property shall not be superior to the rights of man."¹ One aim of government (not its end) is the protection of property, because the end of government is the development of man. He took the words in the preamble, "We, the people," and insisted that they ought to mean more than the founders intended they should mean. And so in 1844, at seventy-seven years of age, as he stood victorious in the battle for the rights of petition, he answered the question as to the source of power, and found it in the people.

As the study of this period comes to a close, let us briefly summarise. The National group of about 1830 was called upon to shape the affairs of government in a nation that had changed in the years following the Constitutional convention in four directions: First, in territorial expansion, carrying with it increase in population. Second, in the use of steam as motive power. Third, in a sectional cleavage due to economic development. Fourth, in a deep and wide-spread growth of the

¹ Madison's *Journal*, Hunt Ed., vol. i., p. 353.

spirit of democracy. Amid these changes were two opposing tendencies in government, the centrifugal and centripetal. These changes and tendencies forced upon the leaders the problem of government. In trying to solve this problem, the old questions arose. The answers given to these questions did not contradict those as given by Washington and the Constitutional group of 1787. And yet the answers are not the same. What is the difference? Is it not this?—Washington stood in the early dawn of the composite empire. The stars were only fading from the sky. The grey streamers of light were in the East. The mist was upon hill and valley. And in the dim light of passing night and coming day, he saw the rocks and trees of government. Now, however, in the year 1830, the morning of the composite empire is further advanced. The stars have melted away. The sun is rimming the horizon. The mists have lifted. And in the sparkle of the clear air, the rocks and trees of government are clearly discerned. It is the era of *definition*.

The Civil War Group of 1861

ON March 4, 1861, the Chief Justice of the Supreme Court extended the Bible, and the President-elect, placing his hand upon it, said: "I, Abraham Lincoln, do solemnly swear that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

The great leader, in the act of taking the oath, is for a brief moment the central figure in a national tableau.¹ Standing in the portico by his side are two men, Breckinridge from Kentucky and Douglas of Illinois. The one, as the retiring President of the Senate, is present in his official capacity. In sympathy he is elsewhere, for in time he will turn away from the capitol, join the Confederate army, and do his best to withdraw from the Union. The other, the recent leader of a great

¹ Nicolay and Hay, *A History*, vol. iii., p. 326. This page furnished the writer his suggestion for this inaugural group. However, the language is his own, and the thought much amplified for the purpose of this study.

party, is more than a mere onlooker. He is here to witness the inauguration of a man whom he knows better than does any man in public life. He is short in stature, but by a single act he suddenly looms large, as he takes the hat of his victorious antagonist. For by this act he seems to hold the tall hat before the nation and say, "Political differences are in the past. In this supreme hour I am for the Union." Here is the question of power as *lodged*. Breckinridge says it is in the States forming the Union. Douglas says it is in the Union as formed by the States.

And standing in the portico is the venerable Roger Taney, now eighty-four years of age. Clad in his robes, he is the representative of that Court which Washington said was "the keystone in the arch of the Constitution."¹ It is a strange juxtaposition that the man who, in his official capacity, had said that the "negroes were so far inferior that they had no rights which the white man was bound to respect,"² should administer the oath to the man who had said of the negro that "in the right to eat the bread, without the leave of anybody else, which his own hand earns,

¹ *Writings of Washington*, Ford Ed., vol. xi., p. 434, note.

² Dred Scott Decision, 1857; 19 Howard, p. 407.



he is my equal—and the equal of every living man.”¹

From the vantage ground in the portico may be seen the flashing muskets carried by soldiers stationed on the roofs of buildings, and on a hill near by a squadron of light artillery, with an aged army officer walking uneasily to and fro—the same whom Andrew Jackson sent into South Carolina in 1830. Somewhere in the assembled group are men from the Border States—patriotic men, now torn by conflicting emotions, and wondering whether some peaceable solution of the difficulty may be found. Here is the question of power as *expressed*: The Chief Justice, the symbol of the law. The soldiers with muskets and cannon, the symbol of force behind the law. The statesmen from the Border States—Blair of Maryland, Holt of Kentucky, and Bates of Missouri—the symbol of compromise through the law.

And the capitol building is incomplete, for the dome is in process of construction. About are blocks of granite and derricks used to hoist them into place. On the ground is the bronze statue of Freedom, intended for the pinnacle of the dome. It

¹ *Works of Lincoln*, Nicolay and Hay Ed., vol. i., p. 289. It recalls an earlier contrast, that of Marshall administering the oath to Jefferson, and suggests the irony of history.

is only a touch of imagination, but perhaps Seward, Chase, Sumner, Wade, Wilson, and Stevens are standing by and saying, "Now you are on the ground and you belong here, for no statue of Freedom should crown the capitol building of the nation while four million human beings are, under the law, nothing more than things, and not to be taken from their owners, save by due process of law. But soon the shackles will fall and then you will be hoisted to your place." This is, in a new form, the little printing-press of Garrison, that rumbled under the eaves of the building in Boston. Here is the question of power as *abused*.

And the multitude of people? The record states that a vast throng assembled. They stand silently while the oath is administered. They have no official place in the programme, other than to march in the inaugural procession. Yet as they look upon the scene, the more thoughtful must be saying to themselves: "This is ours. The President-elect, the Justices, Senators, Congressmen, and other officers constitute the government. But this government, imposing as it is, is the servant of something stronger than itself, namely ourselves—the people." This is the preamble to the Constitution—"We the people of these United States." Here is the question of power as *derived*.

And the atmosphere which envelops this tableau. Things in life as in nature are modified in aspect and proportion by atmosphere. On this inauguration day there is a tenseness of mood which indicates a change. In 1787, the nation was in its dawn, with the mist upon the valley, obscuring the rocks and trees of government, and causing them to appear in dim outline. In 1830, the sun was well above the Eastern sky-line, and, in the sparkling morning light, the trees and rocks were sharply clear. Now it is the noon hour for the nation, and the sun is high in the heavens. But the air is heavy and the light of a murky hue; black clouds are in the sky; the birds are twittering and the cattle in the fields are herding; the dust in the roadway is in a swirl; a storm is about to break. It is the change in atmosphere, which indicates that the era of *definition* has passed into the era of *application*.

But does the great leader catch the symbolism of all this as he takes the oath? The answer to this question is not found in the inaugural address he has read. At this moment he is the cynosure of the civilised world, and, because of this, his official utterance is dominated by caution and conciliation. Therefore it is necessary to go behind the inaugural message and seek a revelation

of his mind in the days between his election in November, 1860, and the eventful March 4, 1861. During these days he was a perfect illustration of Carlyle's words as applied to Frederick the Great: "A man politely impregnable to the intrusion of human curiosity; able to look cheerily into the very eyes of men, and talk in a social way face to face, and continue intrinsically invisible to them."¹ But enough is now known to furnish definite answers to these questions.

It is evident that he realised that the mighty problem of power in government was being swung over from definition to the region of action. The decisions given by Marshall and Taney; the legislative debates with Webster, Calhoun, Hayne, and John Quincy Adams as the contenders; the proclamation by Jackson, and the compromises of Clay; all these had failed to settle the controversy. But though the National era with its ideas had proven inadequate, the men of this generation had not moved beyond them. There is a theory held by psychologists called the impulsiveness of consciousness. According to this theory ideas tend to pass into action unless hindered by opposite or divergent ideas. And this theory was about to have a stupendous illustration in the nation.

¹ Carlyle, *Frederick the Great*, Centennial Ed., vol. ii., p. 374.

When Webster came to his last days at Marshfield, he requested his faithful attendant to anchor a sail-boat within range of his window. And then he instructed him to hoist the flag to the topmast each morning, and to light the lamps in the rigging each evening. For, he added, "when I go down, I want to go with my colours flying and my lamps burning." A few hours before he died, he uttered his last words, as he feebly exclaimed—"I still live!"¹ In a larger sense than he intended, Webster and the other leaders of the National era still lived. And the ominous fact in 1861 is that men holding opposite conceptions of government as enunciated in the preceding generation insist that their flags remain at the topmasts. And Lincoln's colossal task is to lead a movement for loosening the grip upon its signal halyards of one portion in the nation, and the tightening the grip of another portion, that one flag may come down and the other remain up.

This was the thought in the mind of the great leader when, on December 21, 1860, a despatch having been handed to him announcing the attempted secession of South Carolina the day before, he turned to his secretary and dictated the following to his friend Washburn: "Please present

¹ Curtis, *Life of Webster*, vol. ii., pp. 685, 701.

my respects to the General [Scott] and tell him confidentially I shall be obliged to him to be as well prepared as he can either to hold or retake the forts as the case may require, at or after my inauguration."¹ In the quiet, decisive voice of the leader, the click of triggers on muskets levelled for the defence and destruction of government can almost be heard.

But the other query, whether Lincoln recognised, in the midst of the sudden change of atmosphere, the old questions that the leaders of 1776, 1787, and 1830 asked? In other words, was he to maintain the continuity of the national tradition by recognising certain questions about government which had come over from former years, at the same time offering his contribution to a developing tradition, by acting under changed conditions? The old questions are in his inaugural address either by direct statement or inference. However, it is possible to go back of this document, and catch a glimpse of his mind at the time he wrote it.

One day in January, 1861, he withdrew from the circle of his friends in order to secure absolute seclusion. With true Western hospitality he had met callers from all parts of the nation in a room

¹ *Works of Lincoln*, Nicolay and Hay Ed., vol. i., p. 660.

set apart for his use in the State House at Springfield. But now the time had come to write his inaugural address. So finding a room over a store on the main street of the prairie village, he shut himself away for three days. The walls of the room were bare, for neither from the canvas did statesmen look down upon him, nor from the titles of books did thinkers greet him. Yet he was not alone, for on the plain table were four documents:—the Constitution, Jackson's Proclamation, Webster's Debate with Hayne, and Clay's Compromise Bills of 1850.¹ The era had changed, but the change did not consist in the raising of new questions about government, but in a new relation to the old questions. Lincoln's task was to "preserve, protect, and defend the Constitution" as defined in Webster's reply; through the use of force as suggested by Jackson's Proclamation; and modified by Clay's Compromise.

That he was under the spell of the past and felt himself in a great historic succession is evident from the fact that when, a few days later, he said good-bye in the little station by the iron rails, he asked his neighbours to remember him in their prayers, for he added: "I now leave not knowing when or whether ever I may return, with a task

¹ Tarbell's *Life of Lincoln*, vol. i., p. 403.

before me greater than that which rested upon Washington."¹

Having determined Lincoln's recognition of the questions about government, and his appreciation of the new attitude he must take to these questions, let us retrace our steps and notice the tendencies which have been at work during the generation, and which now culminate and create the era of application. Here, the reader is reminded of national continuity which has continued unbroken through the years. For even as the same questions have arisen in the different eras, the same tendencies have connected the eras.

First, there is the tendency in the direction of territorial expansion. In 1861, the god Terminus has reached the bank of the Rio Grande River in the South-west, and the shore of the Pacific in the West, adding 1,219,537 square miles, and making the total area 2,974,159 square miles.² From the national domain ten new States have been formed, giving the Republic thirty-four States and seven territories. The story of the influence of territorial expansion upon the national government has never been fully told. It has influenced

¹ *Works of Lincoln*, Nicolay and Hay Ed., vol. i., p. 672.

² "A Century of Population Growth, 1790-1900," *U. S. Census*, p. 54.

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government at every stage of its development. In 1763, it raised the question of imperial control as regards taxation and led to the war of 1776. Now, beginning with the purchase of Louisiana, then the acquisition of Texas, and still later the adjustment of the Oregon line, it raises the question of imperial control as regards slavery, and leads to the war in 1861.

In 1820, the great Democrat who had carried through the supreme imperial task in our history by purchasing the area from the Mississippi River to the Rocky Mountains, said when he heard of the Missouri Compromise:

This momentous question, like a fire-bell in the night, awakened and filled me with terror. I considered it at once as the knell of the Union. It is hushed indeed for the present. But this is a reprieve only, not a final sentence. The coincidence of a marked principle, moral and political, with a geographical line, once conceived, I feared would never be obliterated from the mind; that it would be recurring on every occasion and renewing visitations, until it would kindle such mutual and mortal hatred as to render separation preferable to eternal discord.¹

Jefferson was right in finding in this expansion the cause for controversy. For the question then arose, and continued for more than a generation,

¹ *Writings of Jefferson*, Ford Ed., vol. x., p. 157.

whether the control over the new territory was imperial, and if so, what was the nature of that control? In 1850, another compromise was effected, and the principle of "Congressional non-interference" was declared in New Mexico and Utah. In 1854, the Kansas-Nebraska Bill was passed, which enunciated the doctrine of "popular sovereignty," and by statute repealed the Missouri Compromise. In 1857, came the Dred Scott decision with its *obiter dictum* that the slave has not the rights of a citizen, and, not being a citizen but property, slavery is constitutional in the territories. But whatever form the controversy assumed, the question at issue was always the result of expansion and involved imperial control. And curiously, as England in 1765 differentiated between the home country and the colonies in legislation, so now does the nation, as between the composite empire formed by the States and the territories as the property of the empire thus formed. For all, save a few extremists, are agreed that the States forming the empire have the right under the Constitution to regulate their domestic institutions. The contention arises as to the nature and extent of imperial control in the territories, as it arose during the 18th century regarding control in the colonies.

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Behind this controversy over imperial control in the national domain was the constant pressure of slavery as a sectionalising influence. In 1861, sectionalism as a tendency has reached its apogee. There is a saying that a difference in degree, if sufficiently great, constitutes a difference in kind. The black clouds in the sky may be larger in the afternoon than in the morning; but if enough larger, a storm comes. So with sectionalism, which has grown to such an extent that a change in atmosphere has come. In the South, King Cotton is absolute. In the passing of a generation, the area devoted to the black traffic has doubled; the number of slaves has almost doubled; the average price paid for slaves has more than doubled; and the money received annually for the cotton crop has doubled twice over.

With this economic development has come a corresponding change in moral sentiment. The theory of mitigation by scattering is forgotten. Now men look upon slavery as an institution to be cultivated in the States and protected in the national domain. The necessary evil of 1830 has become the positive good, sanctioned by Scripture and justified by civilisation. An exalted enthusiast borrows the sober thought of the leaders and gives excessive statement to it by saying that the

cotton crop is "the gravitating power that keeps the civilised world in its proper orbit as it whirls through the grand cycles of its existence."¹

But a change has taken place in the North, which in a modified sense must be considered a sectional tendency, although its ultimate end was the destruction of sectionalism. The last word has not been said upon the influence of abolitionism. It is an open question whether the extreme sectionalism of the South was the result of abolitionism in the North, or whether the spread of abolitionism in the North was due to extreme sectionalism in the South. King Cotton never had undisputed sway in the North. In the earlier days, however, men were disposed to doff their hats, if not to kneel in his presence. Now he is in a bad way. And the explanation for this may be traced, in a measure, to the heroic work of Garrison and his followers. To be sure, abolitionism in its original form no longer exists. It did its work, and, about 1840, disappeared. But as the seed which disappears in the ground reappears in another form in the harvest, so with this movement. Moral agitation, which had doubtless forced the South to defend slavery on scriptural grounds, gave way to political organisation.

¹ Smith, *Parties and Slavery*, p. 181.

The possibilities of this political organisation are seen in the fact that, whereas the slave-holding States increased in population in the decade ending with 1860 only 27.33 per cent., the free States increased 41.16 per cent. These possibilities are now realised, for a national political party has come into power which takes as its policy the right under the Constitution to extend imperial control over the national domain and prohibit therein the existence of slavery. As this party derives its support entirely from the North, including a slight support from the Border States, it is, for the time being, a sectional tendency.

With these expanding and sectionalising tendencies were the old tendencies known as the centrifugal and the centripetal. A reading of the literature in this period shows a relative absence of discussion over these tendencies. There is nothing on a par with the controversies in those early State conventions called to ratify the Constitution. Neither is there anything to remind one of the masterful decisions handed down by John Marshall or the profound debates of Calhoun and Webster. The explanation for this may be in the fact that about all has been said that can be said. Perhaps another explanation is the fact that, as this is an era of action, words count for less than

at other times. Whatever the explanation is, the fact remains that no added word is said on either side. Read Marshall on *McCullough vs. Maryland*, *Cohens vs. Virginia*, or Webster in reply to Hayne; study the Virginia and Kentucky Resolutions as written by Madison and Jefferson, or *Disquisitions on Government* by Calhoun, and you have the argument.¹

It would, however, be a mistake to assume that the tendencies are not at work, because the arguments have long since been made. For, at this time, a leadership as adroit as any exercised by Jefferson or Hamilton in their palmy days is shaping these tendencies to proportions more imposing than ever before in the history of the nation.

In the South, the centrifugal tendency on a stupendous scale, under the superb leadership of Jefferson Davis, Toombs, Stephens, and Benjamin, is throwing the power away from the whole at the centre, to the parts on the circumference, at the same time drawing some of the parts to another centre, and forming a sectional whole. It is a sort of smaller centripetal tendency working within a larger centrifugal. In other words, it is

¹ The exception, of course, is the doctrine of secession. But this is a logical deduction from the doctrine of nullification.

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the doctrine of State Rights being modified by the necessities of sectionalism. That this leadership is adroit admits of no doubt. In the Presidential election of 1860, the three candidates that oppose the Republican candidate divide the vote of the South. These three candidates differ from one another. Breckinridge stands for slavery regardless of the Union. Bell stands for the Union regardless of slavery. And Douglas seems to stand for the Union and slavery. When the vote is counted and announced on the morning of November 7th, it is found that the combined vote of Bell and Douglas is greater in the Southern States by 134,877 than the vote of Breckinridge.¹ Yet within three months, seven States secede and form the Southern Confederacy. And within a few months four more States join it, including the State of George Washington and John Marshall. This sudden shifting and marshalling of sentiment is without parallel in history.

But in the North the centripetal tendency, on a more quiet yet equally vast scale, is drawing power from the parts on the circumference to the whole at the centre, at the same time throwing the

¹ Stanwood, *History of Presidential Elections*, p. 234. The popular vote was as follows: Lincoln, 1,866,452; Douglas, 1,376,957; Breckinridge, 849,781; Bell, 588,879.

parts away from the Southern sectional whole. It is a sort of centrifugal tendency working within a larger centripetal. It is the doctrine of nationalism being intensified by the danger of sectionalism. The South finds its argument in the brain of Calhoun, who revelled in the historical fact of the compact of thirteen States in 1787.¹ The North finds its argument in the brain of Webster, who gloried in a nation expanding beyond that of the thirteen States. The Southern argument is more historical than actual. The Northern argument is more actual than historical. On December 20, 1860, the convention of South Carolina met and passed its famous resolution of secession, which attracted as much attention by its brevity as its assertion. It read as follows:

We, the people of the State of South Carolina in convention assembled, do declare and ordain and it is hereby declared and ordained that the ordinance adopted by us in convention on the 23d of May in the year of our Lord seventeen hundred and eighty-eight, whereby the Constitution of the United States was ratified, and all the acts and parts of acts of the General Assembly of this State ratifying amendments of said Constitution are hereby repealed, and the Union

¹ Calhoun in his later writings seems to have abandoned the compact theory. But the average mind in the South failed to follow his distinctions and held to the theory in its simplest form.

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now subsisting between South Carolina and the other States, under the name of the "United States of America," is hereby dissolved.¹

This statement of South Carolina, which may be accepted as typical of all the seceding States, is based upon the assumption that the States, not the people of the States, formed the Union at the beginning. The North might grant this assumption, although, at the best, it is but a reasonable assumption, and still have the stronger end of the argument. For the all-important question is not what did men intend in 1787, but what did men feel in 1861. In the Revolutionary struggle, Alexander Hamilton impatiently remarked that he was weary of discussions based upon musty parchments. While the Constitution could hardly be called a musty parchment, the arguments advanced, based upon the intentions of the men who wrote it, certainly lacked reality. The fact upon which the North based its argument in the last analysis, and which was shot through and through with reality, was that the Union now did not consist of thirteen but of thirty-four States. The Southern position may be illustrated by the story told in connection with a meeting of scientists at

¹ MacDonald, *Select Documents*, p. 441.

a mountain resort. One of the members of the convention, looking from his window in the hotel, saw another member struggling with a boulder on the hillside. He called to him and inquired what he was doing. The reply came back that "he was moving the boulder up the hill about three feet, in order that it would fit in with his theory." The huge boulder in 1861 was the fact of thirty-four not of thirteen States. The South must move the boulder, in order to fit the argument into the fact. But it could not be moved.¹

The strength of the Northern position may best be stated in the words of a distinguished Justice of the Supreme Court, himself a Southerner, who wrote with the conflict in retrospect. He says:

In 1789, the States were the creators of the Federal government; in 1861, the Federal government was the creator of a large majority of the States. In 1789, the Federal government had derived all the

¹Moses Coit Tyler says: "As the earlier Whig doctrine for the rejection of the taxing power of the general government meant what in the 19th century we have commonly known as Nullification, so the later Whig doctrine of separation from the empire meant precisely what we now mean by the word Secession."—*Literary History of Am. Rev.*, vol. i., p. 477. This attempt to find a historic parallel, which is made by some recent writers, is far-fetched. The Southern States never denied their representation in the imperial system against which they rebelled. The thirteen colonies denied that in any real sense they were represented in the imperial system. This distinction is so fundamental that it makes meaningless the attempted parallelism.

powers delegated to it by the Constitution from the States; in 1861, a majority of the States derived all their powers and attributes as States from Congress under the Constitution. In 1789, the people of the United States were citizens of States originally sovereign and independent; in 1861, a vast majority of the people of the United States were citizens of States that were originally mere dependencies of the Federal government, which was the author and giver of their political being.¹

Justice Lamar assumes the historical accuracy of Calhoun's contention, but recognises the actual potency of Webster's reasoning. The national domain was the determining factor which made possible the Confederation in 1781. Now, after eight decades, this domain, carved into States, again augments the centripetal tendency, and holds the Union for its supreme test.

Such were the tendencies which had been at work through the generation, which gave occasion for the conflict of ideas, which ideas, having persisted, create the era of action. Let us now return to the great leader, who, having taken the oath to "preserve, protect, and defend the Constitution," will in the fulfilment of that oath demonstrate that he is the commanding personality in the period, even as Washington was in 1776 and 1787.

¹ Curry, *The South*, p. 187.

First, as the Bible is closed, and he leaves the portico of the capitol, he journeys down Pennsylvania Avenue in company with the retiring President and enters the White House. There is a story which has come down from the day, which, though not vouched for, is so in harmony with his known position that it might well be true. Washington's portrait, hanging on the wall of the Executive Mansion, in keeping with the occasion had been draped with the American flag. It is said that Lincoln, upon entering the room, walked over to the portrait, stood in silent meditation for some time, after which he was heard to repeat, as to himself, the words from his inaugural: "I hold in the contemplation of universal law and the Constitution, that the Union of these States is perpetual." Then with one of those rare gestures, awkward, but tremendously impressive, he swung his long arm out from the shoulder, extended the index finger of his big, bony hand, and pointing at the flag exclaimed in half-subdued tones, "Not one star on that blue field shall be blotted out." Only a few words. He had stated the argument at length on many occasions. With Marshall and Webster as text-books, he had taught the great truth of the Union now and for ever, one and inseparable. But now the time for argument has

passed. The storm is impending. As he takes up the awful load of government he can only pause, and, in the presence of the Father of his Country, respond in spirit to the toast of other days—"Another hoop for the barrel or more cement for the Union"—and answer, as the great leader in the presence of whose portrait he now is, "More cement for the Union." The old question of the lodgment of power.

Second, let us go with him to the field of Gettysburg. It is November 19, 1863. The occasion is the dedication of a cemetery for the soldiers of the North who had fallen in the battle of the preceding July. As the brave ones from seventeen loyal States had given up their lives, it seemed fitting that, after the formal oration by Edward Everett, the dedication proper should be made by the President of the nation—and, as the invitation stated, accompanied with a few remarks. And so on the day appointed the great leader appears, draws from his pocket a scrap of brown paper, adjusts his glasses, and reads a few words—words which will live as long as man remembers.

Before quoting the closing lines in this word cameo, engraved upon the heart of humanity, think for a moment of Lincoln in relation to Washington as regards government.

Notice, as you recall the writings of each, that whereas Washington rarely refers to the Declaration of Independence, and frequently to the Constitution, Lincoln less frequently refers to the Constitution, and more frequently to the Declaration of Independence. The distinct impression is made, as the utterances of Lincoln are studied, that he lived in the atmosphere of 1776, rather than of 1787. This does not mean that 1787, in his thought, contradicted 1776, but it does suggest that he thought more about the era that emphasised the freedom of man, than about the era that insisted upon the protection of property.

There are a few words in the first inaugural, in which Lincoln seeks the origin of the Union back in the Articles of Association in 1774, and then traces the Union through the Declaration of 1776, on through the Articles of Confederation in 1778, to the Constitution in 1787. The words are of interest, not because of their argumentative value, for they rather weaken than strengthen the argument, but because they afford a glimpse into Lincoln's mind. In thought he lingered in the era of Sam Adams and Patrick Henry, rather than that of Rufus King and Alexander Hamilton. On Washington's Birthday in 1861 in the Hall of

Independence, he said: "I can say in return, sirs, that all the political sentiments I entertain have been drawn, so far as I have been able to draw them, from the sentiments which originated in and were given to the world from this hall. I have never had a feeling, politically, that did not spring from the sentiments embodied in the Declaration of Independence."¹

And so, on this autumn day in 1863, as he reads the few words from the scrap of paper, he naturally begins with the Declaration of Independence: "Fourscore and seven years ago our fathers brought forth on this continent, a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal." Now read the closing words: "That we here highly resolve that these dead shall not have died in vain: that this nation under God shall have a new birth of freedom: and that government of the people, by the people, and for the people shall not perish from the earth." Lincoln here stands with John Quincy Adams, and gives classic expression to that which the "old man eloquent" struggled for. He goes back of Washington in the Constitutional convention to the Revolutionary group in the

¹ *Abraham Lincoln, Complete Works*, Nicolay and Hay Ed., vol. i., p. 690.

Declaration of Independence to find the source of power in government.

Third, let us study Lincoln in the administration of government. As he assumed the responsibilities of office, seven States in the South were by resolution out of the Union. The evidence is clear that the intent and expectation of the Southern leaders was to leave the Union in peace. The South did not believe the North would interfere with their going. The North did not believe the South would in fact go. But in this both the North and South were mistaken.

In his inaugural address Lincoln said: "In your hands, my dissatisfied fellow-countrymen, and not mine, is the momentous issue of civil war. The government will not assail you. You can have no conflict without being yourselves the aggressors." And it is a matter of common history, how, after the inauguration, almost single-handed, he matched his leadership against the adroit Confederate leadership, and manœuvred the South into a position in which it literally fulfilled his words, by firing on the flag at Sumter.

There is no need to consider here the events that followed the attack on the fort in the harbour of Charleston, except as they show Lincoln's understanding of the expression of power. It must be

admitted that the lofty ideal of power formulated in the Constitutional era is not found in this era. Lincoln does not apply power, as that something in government, which, expressed through law and enacted in the spirit of compromise, is made operative by force, which usually is moral and sometimes is physical. As will be seen later, Lincoln gave a noble revelation of power used in the spirit of compromise, though balanced by a use of moral and physical force, but he did not express the power through law in the full constitutional sense. On the contrary he carried executive action to an extreme hitherto unknown in our history.

However, in order to do Lincoln justice, in his unique expression of power through executive acts, certain facts should be kept in mind. First, he dealt with a tremendous revolution, which had as its purpose the overthrow of government. Second, this being a composite empire, republican in form, the revolution meant of necessity a disarrangement or cessation of governmental functions in some parts. Third, in the Constitution, under which he was expected to act, there was no adequate provision for executive action in time of revolution. These are facts of profound significance and must not be forgotten when Lincoln's use of "war power" is interpreted.

He believed it to be his duty, because of these facts, to exceed, if necessary, the letter of the Constitution. In no other way could he be loyal to his oath "to preserve, protect, and defend the Constitution." In 1787, owing to the "exigencies of the Union," Washington went beyond the wording in the call for a convention, and with others provided a "radical cure." Now Lincoln goes beyond the text of the Constitution, because the Constitution, which for him is the symbol of the Union, is in danger. His position is that it is wiser to save the Constitution and lose consistency than to keep consistency and lose the Constitution.

This does not mean that he violated the Constitution, but rather that he applied the theory of implied powers to executive action in a time of revolution. Just as Marshall half a century before, owing to conditions unforeseen when the Constitution was written, interpreted it in a way to meet those conditions, so now Lincoln, confronted by circumstances which the framers did not anticipate, gave to himself, as President, power to meet new needs. To be sure, Marshall's interpretation was judicial, and therefore an interpretation of power through the law. Lincoln's interpretation was executive and therefore in a measure outside the law. For a time, it must be confessed, the

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government became one not of law but of a man. It was a dangerous position to take, but perilous conditions create dangerous positions. And fortunately for the nation, Lincoln, who dared to be his own exponent of the law, was true to his conception of power as derived from the people, and in action was both cautious and determined.

The three illustrations of this power as used through executive action are: First, the call for troops following the fall of Sumter.¹ Article I, Section 8, of the Constitution reads as follows: "To provide for the calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions." This clause is found in the article of the Constitution which defines the composition and enumerates the powers of the legislative branch of the government. And because of this fact, there can be no doubt that the founders of the government intended that this power should be exercised by Congress. But Congress was not in session when the blow at the Union was struck. It did not convene until almost three months

¹ *Works of Lincoln*, Nicolay and Hay Ed., vol. ii., pp. 34, 41. Lincoln issued this first call under authority of the Act of 1795. There was some doubt in his mind as to the constitutionality of his second call in May, 1861, for in his message to Congress of July 4, 1861, he says: "These measures whether strictly legal or not, etc." *Ibid.*, p. 59.

later. Some one must act and Lincoln believed he was the one.

Second, his suspension of the writ of *habeas corpus*. On April 27, 1861, Lincoln authorised General Scott and other officers under his command to suspend the writ.¹ A few days later, attempting to act under the suspension in Baltimore, the order came before Chief Justice Taney, then in the city, who asserted that Lincoln had violated the Constitution.² This raised a legal question of far-reaching significance, which was discussed during the four years of the war. Article I, Section 9, of the Constitution reads: "The privilege of the writ of *habeas corpus* shall not be suspended unless in cases of rebellion or invasion the public safety may require it." The President defended his action in suspending the writ by calling attention to the fact that the clause in the Constitution does not specify who shall exercise the right. But as the clause, like the one on the militia, is in the first article of the Constitution, and among the enumerated powers of Congress, it is probable that the President was mistaken.

The President's position was, however, unsailable, when, passing beyond the omission in the

¹ *Works of Lincoln*, Nicolay and Hay Ed., vol. ii., p. 39.

² Nicolay and Hay, *A History*, vol. iv., p. 175.

law, he said: "Are all the laws but one to go unexecuted, and the government itself to go to pieces, lest that one be violated? Even in such a case, I should consider my official oath broken, if I should allow the government to be overthrown, when I might think the disregarding the single law would preserve it."¹ The force of this is seen when it is realised that a rebellion might assume such proportions as to make impossible, for a time at least, the assembling of Congress.

Third, his relation to slaves, which culminated in the Emancipation Proclamation. There is, of course, no mention of this in the Constitution. Here Lincoln was as extreme in action as in his suspension of the writ. In theory he carried his executive independence farther, for, while he admitted the right of Congress to suspend the writ,² he denied it the right to emancipate the slaves, and refused on this basis to sign the Reconstruction Bill of July, 1864.³ Yet he claimed for himself the right to issue an emancipation proclamation to apply to the slaves in the States then in rebellion, and based this claim upon Article II, Section 2, of the Constitution which says: "The President

¹ *Abraham Lincoln, Complete Works*, Nicolay and Hay Ed., vol. ii., pp. 59, 60.

² *Ibid.*, vol. ii., p. 407.

³ *Ibid.*, p. 545.

shall be commander in chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States." When he acted on the question of emancipation, as will be seen later, he acted from military necessity.

It should be said that Congress sustained Lincoln in the use of power by executive action, when under normal conditions such power would be legislative, or as with emancipation, by constitutional amendment. But the sanction in each instance followed the act. Thus it may be said that Lincoln when confronted by the "exigencies of the Union," used the power of government, sometimes through the law, at times outside of its strict interpretation, yet always for the maintenance of the law. And in using the power through executive action, he was sustained by the legislative branch of the government.

With this understanding of Lincoln's attitude to the law as qualified by the fact of revolution, let us now consider how he used power in the spirit of compromise as balanced by force. Compromise, while enriched by the depth of his humanitarian nature, was always based upon an utilitarian purpose, namely, to save the Union. By a sudden unforeseen change, the emphasis

changed from slavery and its extension in the territories to the preservation of the Union. In a deeper sense than he realised when he repeated the words, Lincoln's task was to "preserve, protect, and defend." This involved, among other things, the holding of the Border States in the Union and the reorganisation of government in those States which attempted to leave the Union. Practically, he was forced to admit that some States had gone out of the Union. Sometimes he acted upon the fact, and again upon the theory that the Union was indissoluble. But whether he acted upon one or the other, his controlling spirit was compromise, in so far as it did not interfere with his dominant purpose to save the Union. Or, better still, in order to save the Union, he saw the need of compromise.

He believed that the maintenance of the Union depended upon holding Kentucky. He said: "I think to lose Kentucky is nearly the same as to lose the whole game. Kentucky gone, we cannot hold Missouri, nor, as I think, Maryland. These all against us, and the job on our hands is too large for us."¹ To accomplish this he gave two positions in his cabinet to men from the Border States.

¹ *Abraham Lincoln, Complete Works*, Nicolay and Hay Ed., vol. ii., 81.

It was further necessary to restrain the extreme anti-slavery sentiment, both among military leaders and civilians. His task was made the more difficult because of the unwarranted assumption of power by some of his generals, such as Frémont and Hunter, and by the unjust criticisms from such public leaders as Horace Greeley and James Russell Lowell.

In the summer of 1861, Greeley wrote him that the country was convinced that he lacked the ability to meet the situation.¹ Later, Lowell exclaimed, "How often must we save Kentucky and lose our self-respect."² But amid the blunders of his generals and the criticisms from his supposed followers, the great man never lost his poise and saved Kentucky, Maryland, Missouri, and Delaware for the Union, and from these States, together with the loyal portion of Tennessee, threw 200,000 soldiers against the Confederacy.

He also believed, that in the maintenance of the Union assistance could be rendered by a gradual resumption of the functions of government in the States then in rebellion. If, in dealing with the Border States, he acted upon the fact that some States had gone out of the Union, and other States

¹ Nicolay and Hay, *A History*, vol. iv., p. 365.

² Tarbell, *Life of Lincoln*, vol. ii., p. 65.

might follow,¹ in dealing with Louisiana, Arkansas, and Virginia, he acted upon the theory that no State had gone out of the Union, and therefore government should be operative in every State. He based his action upon Article IV, Section 4, of the Constitution, which says: "The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion." He did this work by executive action, aided by the military, and for the most part without the support of Congress. He had little to work with, as seen in the loyal government of Virginia which met at Alexandria, and which he was forced to speak of as simply "a nucleus to add to."¹ But he saw what some others failed to see, namely, the possibilities of larger things, and the basis for future action, when the war should have ended. And so he closed his last public speech, on April 10, 1865, by saying: "Concede that the new government of Louisiana is only to what it should be as the egg is to the fowl, we shall sooner have the fowl by hatching the egg than by smashing it."² The leaders in Congress, after he was gone, nearly smashed the eggs. The splendid fowls were hatched

¹ *Abraham Lincoln, Complete Works*, Nicolay and Hay Ed., vol. ii., p. 620.

² *Ibid.*, p. 675.

in the South, when, after a bitter experience, the nation returned to the spirit at least of Lincoln's reconstruction programme.

As has been intimated, his underlying thought in the use of compromise was to weaken the armed resistance to the Union. The reconstructed governments, weak as they were, served as "back-fires" and proved exceedingly troublesome to the Confederate leaders. The Border States, whose populations were about equally divided as to secession, tilted now to one side, and now to the other, but finally, under the patient and skilful handling of Lincoln, settled in the Union. But along with this masterful display of compromise was the use of physical force. For this was stern war. It was a revolution, where physical force must be used, and Lincoln, with a relentless persistence that never ceased, hurled the armies of the loyal portion, like huge, round, smooth cannon-balls, against those in revolution.

It is from this angle that his treatment of the slaves should be studied. There are four distinct and progressive positions taken by Lincoln, before the final position is taken in the Thirteenth Amendment: (1) Slaves coming within the Union lines are no longer the property of their former owners. (2) Slaves, as property of those in rebellion, come

into the possession of the United States apart from judicial procedure, when seized by the Union armies. (3) All slaves in the States in rebellion, excepting in certain portions of two States, are by executive proclamation free. (4) The slaves, thus freed by proclamation, may be armed as soldiers, and enlist for the preservation of the Union.¹ In taking these positions, and in the order named, Lincoln had in mind the fact that the slave population was an actual physical force, which might be used for the defence of the Union. In 1864, as he reviewed his own position he wrote:

Any different policy in regard to the coloured man deprives us of his help, and that is more than we can bear. We cannot spare the hundred and forty or fifty thousand now serving us as soldiers, seamen, and labourers. This is not a question of sentiment or taste, but one of physical force, which may be measured and estimated as horse power and steam power are measured and estimated. Keep it and you can save the Union. Throw it away and the Union goes with it.²

But with this appreciation of the slaves as an

¹ The provision for the arming of the freed slaves was not in the draft of the proclamation issued September 22, 1862. It was inserted in the final draft of January 1, 1863. See Nicolay and Hay, *A History*, vol. vi., chapters viii. and xi.

² *Abraham Lincoln, Complete Works*, Nicolay and Hay Ed., vol. ii., p. 564.

asset in the struggle, was his unerring knowledge of the military resources of the loyal States, and his determination to use them to the utmost. From the moment that Sumter was fired upon, until Lee sheathed his sword at Appomattox, Lincoln never wavered in his purpose to use physical force not only to defend the Union but to crush the rebellion. When McClellan was riding around the capitol, Lincoln said he would gladly hold his horse, if he would only win a battle. When some one criticised a personal weakness of Grant, his reply was: "But he can fight." When, later, negotiations were started with peace in view, his explicit instructions to the generals were to continue their operations on a war basis.

Perhaps a single illustration will suffice. One morning in the summer of 1864, Lincoln enters the War Department. Stanton, the great Secretary, is still at work, for he seems to have done nothing else. Lincoln takes his accustomed seat by the operator's table. It is an awful hour,—the Wilderness with its carnage; Spottsylvania with its bloody angle; Cold Harbour with its slaughter. Grant is now at Petersburg to the south of Richmond. He had said that he would take Richmond if it took all summer. But summer had come and is more than half gone, and Richmond is not taken. The

North is growing weary of the awful struggle. The loss of life is appalling. The cry is going up that the price paid is too great. A coloured woman, Harriet Tubman, described the battle-field, and people grew pale. She said: "And then we saw the lightning and that was the guns. And then we heard the thunder and that was the big guns. And then we heard the rain falling and that was the blood falling. And then we reached out to gather in the craps, and it was dead bodies that we reaped."¹

On this morning a message is handed to Lincoln from Grant, in which the great captain suggests slipping away from Petersburg and joining Sheridan in the Shenandoah Valley. And Lincoln immediately dictates a reply as follows: "Hold on with bulldog grip and chew and choke as much as possible."² Strange words from the gentle and tender President. The man who would leave his carriage in the roadway, and place in its nest a bird with a broken wing. He who would sometimes disturb the strict discipline of the army because of his inability to withstand the plea of a mother for her boy who had slept at his post. It

¹ Hart, *Abolition of Slavery*, p. 209.

² *Abraham Lincoln, Complete Works*, Nicolay and Hay Ed., vol. ii., p. 563.

is a reversal of the old myth of Pygmalion and Galatea. The warm-hearted, lovable, and magnanimous counsellor and friend turns into the cold bit of marble. And why? Because the fundamental law of the land is imperilled.

Lincoln, then, in the administration of government answers the question of power by saying, it is expressed through law, qualified by extreme executive action, due to the fact of revolution, which power is used in the spirit of compromise, and made effective by moral and physical force.¹

Let us return to the portico of the capitol building as Lincoln delivers his second inaugural on March 4, 1865. On this day, had any in the vast throng been on the lookout for omens, they would have commented upon the fact that whereas the first inaugural was read from the western portico of the capitol, the second is now read from the eastern portico.² It is the East with its promise

¹ More space is given to the consideration of Lincoln's use of the "war power," in connection with the expression of power in government, than to the other phases of his work, because it is the most distinctive in relation to the problem of power.

² "Whilst the members were signing it, Doctor Franklin looking towards the President's chair, at the back of which a rising sun happened to be painted, observed to a few members near him, that painters had found it difficult to distinguish in their art a rising from a setting sun. I have, said he, often sat in the course of the session, and in the vicissitudes of my hopes and fears as to its issue, looked at that behind the President without being

that is now faced. And what changes have taken place. In the four years, the dome of the building has been completed, and the bronze statue of Freedom is no longer on the ground but on the pinnacle, buttressed by the XIIIth Amendment to the Constitution, which has passed both branches of Congress. In the inaugural procession, for the first time in the nation's history, a battalion of coloured troops and several civic organisations of the same race are found. The conscientious and able, but mistaken, Taney is gone, and in his place, to administer the oath of office, is Salmon P. Chase, an abolitionist, who had worked through political organisation.

Lincoln, still the commanding personality of the group, is changed in appearance. His secretary, who later became a great Secretary of State, referring to these closing days, says:

He continued always the same kindly, genial, and cordial spirit he had been at first, but the boisterous laugh became less frequent year by year; the eye grew veiled by constant meditation on momentous subjects; the air of reserve and detachment from his surroundings increased. He aged with great rapidity.

able to tell whether it was rising or setting. But now at length I have the happiness to know that it is a rising and not a setting sun."—Madison's *Journal*, Sept. 17, 1787, vol. ii., p. 397.

He refers to two life-masks, the one made in 1860 and the other about this time, and says of the later:

The other is so sad and peaceful in its infinite repose that the famous sculptor, Augustus Saint-Gaudens, insisted when he first saw it that it was a death-mask. The lines are set, as if the living face, like the copy, had been in bronze; the nose is thin and lengthened by the emaciation of the cheeks; the mouth is fixed like that of an archaic statue; a look as of one to whom sorrow and care had done their worst without victory is on all the features; the whole expression is of unspeakable sadness and all-sufficing strength. Yet the peace is not the dreadful peace of death; it is the peace that passeth understanding.¹

The lover of his country as he examines these masks, now in the national museum at the capitol, catches a glimpse of the sacred and tragic meaning of leadership in the time of peril. This noble spirit is only fifty-six years of age as measured by the calendar, but he is a very old man as measured by experience.

Lincoln is a changed man in thought. A comparison of the first with the second inaugural reveals this. In the first it is the statesman with clear conceptions of power in government who speaks; in the second it is the man with profound moral convictions who speaks. The first deals

¹ *Century Magazine*, November, 1890.

with the conditions under which war may be averted. The second drops thought as a lead into the mysterious depths, and takes a sounding of compensation, as it relates to the underlying cause of the war, namely, slavery. And it is Lincoln's attitude to slavery, as seen in the second inaugural, that registers the change.

There is no advance or change in his conception of power lodged, derived, or expressed in government. But the change in his conception of power *abused* in government is unmistakable.

In the first inaugural, he says, "I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so."¹ When he read the second inaugural he had interfered with slavery in the States, and had approved an amendment to the Constitution for ever prohibiting slavery in the States.

¹ February 28, 1861, the House, and March 3d, the Senate, passed an amendment to the Constitution which read as follows: "No amendment shall be made to the Constitution which will authorise or give to Congress the power to abolish or interfere within any State with the domestic institutions thereof, including that of persons held to labour or service by the laws of said State." It is this amendment which Lincoln referred to in his first inaugural. It was never submitted to the States, owing to the outbreak of the war.

In comparing Lincoln's position in 1861 with that of 1865, it should, however, be said that the change registered is one of method rather than conviction. There is nothing to show that in personal conviction he ever changed on the question of slavery. From early manhood until death his conception was as clear as a hound's tooth is clean. He saw the moral meaning of slavery when as a young man he visited New Orleans. His consistent position through all the years was that, "if slavery is not wrong, nothing is wrong."¹

He believed, however, that slavery under the Constitution was a domestic institution of the States and not to be interfered with by the general government. Inasmuch as some doubted this, he was willing to advocate the adoption of an amendment making this clear. But if slavery could not be interfered with in the older States, it could be prohibited in the national domain and in the newer States carved from this domain. He believed, and this is the important fact, that by prohibiting slavery in the newer sections, slavery would ultimately disappear in the older sections of the Union. He reversed the position taken in 1820, when men said that slavery being as a cloud in the sky of a summer's day, the scattering

¹ *Works of Lincoln*, Nicolay and Hay Ed., vol. ii., p. 508.

of the cloud would cause it to disappear. He said, restrict slavery, as a forest fire is restricted by clearing around it, and it will burn itself out.

Then came the war. In seeking to maintain the government during the war he used the slave as a military asset. In order to use him to the fullest extent, he issued the Emancipation Proclamation. Having taken the shackle from the slave he refused to again replace it. He then moved forward to the only tenable position, that slavery having caused a rebellion for the overthrow of government, and the slave having been used for the defence of government, the slave should be for ever free. Hence the need of an amendment to the Constitution for ever prohibiting slavery. This having passed Congress, he can say in his second inaugural, in words that suggest a Hebrew prophet:

Fondly do we hope, fervently do we pray that this mighty scourge of war may speedily pass away. Yet if God wills that it continue until all the wealth piled up by the bondsman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn by the lash shall be paid by another drawn by the sword, as it was said, three thousand years ago, so still it must be said, The judgments of the Lord are true and righteous altogether.

The question of the abuse in government is

answered. The moral justification for the war is the overthrow of slavery. Lincoln began on this question about where Washington ended. He ended where Garrison began.¹ There is nothing more for the great leader to do. His work is ended. He has trudged across the prairie; climbed the foot-hills; has struggled up the mountain-side; he is almost at the end of the journey and is very tired; in a few days he will reach the top of the mountain of fame, tarry there for a brief moment and be silhouetted forever against the sky-line of history. Then of him it shall be said, as of one of old—"He was not, for God took him."

To summarise the thought of this chapter: The Civil War group with Abraham Lincoln as its commanding personality had as its work the *maintenance* of government. This involved the mighty problem of power in government. In solving this problem amid the clash, crash, and flash of war, the great questions of the meaning of this power were raised. In considering these questions, a new and final answer, under the strain of war, was given to that of the abuse of power.

Viewed as a governmental struggle and connect-

¹ The fact that an amendment to the Constitution forever prohibiting slavery was thought necessary, was a historic justification of Garrison's position that the "Constitution was a covenant with death."

ing the era with the preceding eras, the statement is this: In 1776, an advanced conception of political freedom contended against the attempt to extend the system of imperial control, which was under a reactionary influence in English history. This protest was successful, and following this, in 1787, a written constitution was adopted which created a composite empire, republican in form. In 1830, under the stress of conditions which those who formulated the Constitution could not have foreseen, the composite empire was defined, and the definitions given went beyond the formulations made. In 1861, the stupendous question was whether the Constitution, as formulated in 1787, could be maintained, by an application of the definitions of 1830. The "more perfect Union," which was formed under the leadership of Washington, was maintained under the leadership of Lincoln. And in maintaining the Union, slavery was abolished that a still more perfect Union might exist.

As the era closes with the departure of the great leader, it is early afternoon in the nation's life. The air is clear; the clouds are dispersed; the winds have died away. There are white puffs floating in a clear blue sky and the sun is gently shining. But all the streams are swollen and the

corn in the field is down; gullies are in the roads; and here and there uprooted trees show a fierce storm's wrath. The rain had fallen in torrents; the winds blowing a gale had done their cruel work, while thunder rumbled and lightning flashed. Now the time for repair and restoration has come.¹

¹ "The first great struggle between the pro-slavery and anti-slavery parties began in the Federal convention, and it resulted in the first two of the long series of compromises by which the irrepressible conflict was postponed until the North had waxed strong enough to confront the dreaded spectre of secession, and, summoning all its energies in one stupendous effort, exorcise it forever. From this moment down to 1865, we shall continually be made to realise how the American people had entered into the shadow of the coming Civil War before they had fairly emerged from that of the Revolution; and as we pass from scene to scene of the solemn story, we shall learn how to be forever grateful for the sudden and final clearing of the air wrought by that frightful storm which men not yet old can still so well remember." Fiske, *Critical Period of American History*, p. 256.

The Relation

It is now possible, having examined the work in government during five periods, to say two things about the relation between Washington and Lincoln. First, the relation is accentuated by the similarity of the work done in the periods of which they were the commanding personalities. In each period, the central problem has been that of *power* in government. The same questions as to the meaning of this power have been raised in attempting to solve this problem. Second, the relation is modified by the difference in conditions amid which the problem has appeared. This difference in conditions has made each period distinctive. Continuity and development are seen in the history, and similarity and difference shown in the relation.

But the relation between Washington and Lincoln is something closer than that found in a comparison of their work. For emerging from the work, or seen through it, are the workmen. And even as the work is compared, so also may the workmen be compared. That is, through similar-

ity and difference in the qualities of leadership seen in the workmen, may the relation between them be further accentuated and modified. Let us begin by noting the differences which modify and then pass on to the similarities which accentuate the relation between them.

It must be admitted that Lincoln was superior to Washington in the work of government. In saying this, it is well to remember that the national career of Lincoln was distinctly civil; that of Washington, military and civil. Washington may be seen in these pages presiding over the convention of 1787, but he needs the background of battlefields. The lines of the heroic figure of Lincoln are civil even though it appears in the midst of military tumult. Washington was by choice a country gentleman, through necessity a general, and from a sense of duty a statesman. Lincoln was by training a lawyer, from desire a political leader, and, in the realisation of a worthy ambition, a president. Because of this, it is not surprising that in certain respects he was superior to Washington in the work of government.

This superiority was seen in his mental grasp of the philosophy of government.¹ The thoughts on

¹ The student who cares to go into the speculative side of our governmental development, should read A. C. McLaughlin's

political science were as morsels of appetising food for the brain. He smacked his mental lips in anticipation of an argument on public affairs. He was a "man of propositions." He believed in the political application of the scriptural words, "Come now let us reason together."

With Washington there is a total absence of the argumentative habit in his thinking. A syllogism in logic was as distasteful to him as a noisy democrat without property. He probably never, save from a sense of duty, abandoned a fox hunt for a political discussion. He kept his head well balanced on his shoulders, and was superb in the exercise of judgment. If the definition of an educated man be one able to suspend judgment in the presence of exciting ideas, then he was splendidly educated. An example of this is his attitude on the question of a national bank as Jefferson and Hamilton presented their arguments.

Lincoln, however, had more than power to suspend judgment, for he had the mental initiative which led him to search for arguments which should guide judgment. Washington sent others in search of arguments, and used their findings as the basis for his own decisions. Lincoln went with

exhaustive monograph entitled, "Social Compacts and Constitutional Construction," in the *American Historical Review*, vol. iv., pp. 367-390.

those about him in search of arguments and often found other arguments upon which to base a decision. In the critical moments of his administration, when some pronouncement was to be given forth, the reasoning it contained always passed through the alembic of his own mind. He was a profound thinker on the science of government.

Another difference to be noted is in Lincoln's use of men for the ends of government. In a democracy, government is a pyramid, with the mass of men at the base, and the leaders of men at the apex. Lincoln's marvellous skill was as apparent at the apex as at the base. His superiority over Washington in this respect was not due to the fact that the first leader failed and he succeeded, but to the fact that he so signally succeeded. He ranks with Jefferson and Jackson in his discernment and appreciation of the shifting and diverse currents of public opinion, and easily surpasses them in his handling of strong men for the purposes of government.

He was nominated by a convention which some thought had been swept off its feet, and elected by a popular vote, almost a million less than a majority. In the judgment of many thoughtful men, the wheels of political machinery had slipped a cog in elevating him to the presidency. When he entered

the White House, distrust of his ability and right to lead was widespread. But with tact, patience, and firmness, he gained such control that, in a noble sense, he was able to utilise a Chase, Seward, and Stanton. The record of his relation with these men is more interesting and revealing than most records of great men with all men. So complete was his mastery of the situation that, when his work ended, to many others than Walt Whitman he was "My captain, oh my captain!"

The contrast between the great leaders, in the control of men, especially of the leaders among men, cannot be pushed too far. For it must be remembered that conditions under which the first President came into leadership were not such as to give an equal opportunity. National life was an experiment. The ship of state was given the official test fresh from the stays, and the test was made on the ebb-tide of loyalty to the nation. Reaction had set in from the high patriotism of the early Revolutionary days. The officers, whom Washington chose as his subordinates, formed a motley group, for he tried the unique experiment of selecting a non-partisan Cabinet, and, doing this, sacrificed efficiency for patriotism. It may be doubted whether two men ever came together in the affairs of government who were a more com-

plete antithesis than Jefferson and Hamilton. They were indeed the square peg and the round hole.

With Lincoln, conditions were different. He had two generations of public life to draw upon, and, during those years, ideals of public service had been created. He also came to his task amid the stress and strain of a terrible war, one effect of which was to quicken the sense of loyalty and unite all patriotic elements in the support of government. There were discordant elements for him to pacify, guide, and utilise, yet he did not have two such masterful and mutually antagonistic personalities as the domineering, yet brilliant, Federalist, and the radical, yet adroit, Democrat. But after making the most generous allowance for the change in conditions, it still remains true that the later leader displayed superior skill in weighing the elements of human nature and disentangling the cross purposes of men.

Again, Lincoln was a master in the use of language for the expression of thoughts on government. In a representative government language assumes a supreme significance. The leader who is skilful in his use of language works back to the headwaters of the stream, for in influencing the people he reaches the source of power. Sometimes

the language is spoken, but more often it is written. In either use of language, Lincoln was superior to Washington. There is a famous description given by Senator Maclay, of the first President making his inaugural address. He says: "This great man was agitated and embarrassed more than he was by levelling cannon or pointed musket. He trembled, and several times could scarce make out to read, though it must be supposed he read it often before."¹ On the other hand, Lincoln was a master of popular assemblies. He came into national prominence because of the debates with Douglas. He won the confidence of many leaders in the East as the result of the Cooper Union speech. He touched the heart and reached the mind of the loyal portions of the North, through his series of addresses on his way to the capitol in 1861. There is a remarkable bit of description by one who saw him in the celebrated debate on the prairie. He says: "Abraham Lincoln . . . rose from his seat, stretched his long bony limbs upward, as if to get them into working order, and stood like some solitary pine on a lonely summit, very tall, very dark, very gaunt, and very rugged, his swarthy features stamped with a sad serenity, and the instant he began to speak the ungainly

¹ *Writings of Washington*, Ford Ed., vol. xi., p. 383, note.

mouth lost its heaviness, the half-listless eyes attained a wondrous power, and the people stood bewildered and breathless under the natural magic of the strangest, most original personality known to the English-speaking world since Robert Burns. There were moments when he seemed all legs and feet, and again he appeared all head and neck; yet every look of the deep-set eyes, every movement of the prominent jaw, every wave of the hard gripping hand, produced an impression, and before he had spoken twenty minutes the conviction took possession of thousands that here was the prophetic man of the present and the political saviour of the future."¹

The same superiority is revealed by Lincoln when writing as when speaking on questions of government. The best of the writings which have come down with the name of the first President, such as the War Correspondence and the Farewell Address, are supposed to have been, in literary expression, the work of Hamilton.² The fact that Washington turned to the ablest writer of his day

¹ Grierson's, *The Valley of Shadows*, p. 198.

² As regards the War Correspondence there has never been any doubt. Hamilton's work in the Farewell Address has been doubted: Oliver, p. 351, asserts that he was its author. Allan McLane Hamilton, the distinguished grandson, discusses at some length the question, and seems to establish the authorship. See his *Intimate Life of Alexander Hamilton*, pp. 84-89.

for help shows that, while he recognised his own limitations, he also appreciated the importance of language in his work of leadership.

Not so with Lincoln. When the time came for him to lead in the work of maintaining the Union, he had no equal among his contemporaries in the use of language as a medium for touching and forming public opinion. A careful study of his letters and documents justifies the assertion that, in the use of language for great ends, he stands without a rival among the statesmen of the world.

An analysis of these writings reveals four characteristics of importance. First, there is an utter absence of literary dilettanteism. Quaint, homely, and original, the language often is, but never is it affected. Frequently he wrote, with the thought of creating an impression by what he wrote; but not a sentence is found, formed by the pen, as a cherry stone is whittled into shape by the pen-knife. The pressure upon him was too great, and his mind too serious for such trifling.

Second, his mind is never subordinate to his style. This is a severe test to apply to the writings of one whose style is matchless. The writers of the first rank who can stand it are easily counted. Carlyle has written pages as brilliant as any known to modern literature; Macaulay has chapters

among the most fascinating in history. But compare a page or chapter of one of these writers with the lines in one of Lincoln's great documents, and the distinct impression is made upon the mind that the writers across the sea are more skilful in language than robust in thought, while, with the great American, the tough fibre of his mind is felt in every line he writes. The words he uses are to his thoughts as the polish is to the grains of the wood. And as the grains show more clearly as the wood takes the polish, so his thoughts on government stand forth with more strength as they find superb expression in words. His language is never in excess of his thinking.

Third, through his style there is the constant play of imagination. Public opinion in a republic is reached not alone, or even primarily, through the reason, but through the imagination. Lincoln understood this, and as a result his great writings are enriched by this element. There is nothing light or fanciful in his play upon the imagination. His finest passages do not suggest the lights and shadows upon the meadows, but rather the sun in the western sky flooding the rugged mountain-side, for underneath the glow of imagination lies the solid reasoning.

Fourth, his language is exact, never making

him say more or less than he intends. There is no over-refining in words, no excess of qualifying propositions, no tendency to reach his destination by a circuitous verbal route. As another has aptly phrased it: "He is one of the few of whom it may be said, as Dante said of himself, 'I have often made words say things that they did not wish to say; but words have never made me say things that I did not wish to say.'"¹

This matchless skill in the use of language was a growth and the result of painstaking effort. While this growth, of course, began in childhood as he wrote with charcoal upon a wooden shovel, it also may be traced during the four tumultuous years of his leadership. A comparison of the two inaugural addresses, as they came from his hand, will show this. The earlier one is liberally blue-pencilled. The later one is free from the disturbing marks of the pencil. Nowhere in great literature is there a more perfect illustration of Quintilian's dictum, that "the way to write well is not to write quickly, but if you take the trouble to write well, in time you can write as quickly as you like." In the first inaugural he struggles slowly, and, when through with the struggle, submits his product to the schoolmaster of Springfield, who

¹ Bliss Perry, Address before Brooklyn Institute, 1911.

discovers a "pesky split-infinitive."¹ Three years later he journeys to the battlefield, and on the way writes the Gettysburg Address, the words of which are like pebbles of the brook, washed round and smooth by the flow of waters. He has taken time to write well and at last is able to write supremely well with little time.

Having noted the negative aspect of the relation, that is, the absence in one of certain qualities of leadership found in the other, let us now consider the positive aspect of the relation, that is, the possession by both of certain other qualities or traits that pertain to leadership of a high order.

First among these traits is that of insistence upon the *concrete*. The objective world was the tremendous reality for them both. Realism was the atmosphere in which they dwelt. The French scholar Renan is reported to have said to his sister Henrietta: "Ah, I thank God that he has placed my happiness in thinking and feeling."² These leaders were men of deep emotions and lofty thoughts, but they would never have made such

¹ The first inaugural was submitted to others, notably W. H. Seward. The changes he suggested and which were adopted are noted in Nicolay and Hay, *A History*, vol. iii., chap. xxi. The document was also submitted to S. A. Douglas, although Nicolay and Hay make no mention of this. See Allen Johnson's *Stephen A. Douglas*, pp. 463, 464.

² *North American Review*, April, 1907.

a remark. For them life's satisfaction was found, not in the thought or feeling, but in projecting these into the sphere of action. With each the will was central in life.

And this insistence gives a clue to the secret of their unchallenged influence. They were not original thinkers, for neither offered any contribution to the theory of government. James Wilson was a more original thinker than Washington, and the distinctive ideas that took shape in the era of Lincoln may be traced to others.¹ And they were not the creators of the movements of their respective eras. The Constitutional movement of 1787 was greater than Washington and the Civil War movement than Lincoln. At the grave of Rousseau it was repeated that he said of the philosophers: "They have produced light; I will produce a movement." These great leaders neither produced the light nor the movement. And yet they were the commanding personalities in their era.

The explanation for this is in the fact that they were tremendous in action. Without a Washing-

¹ J. Q. Adams, in a speech in Congress in 1842 said, "When a country is invaded, and two hostile armies are set in martial array, the commanders of both armies have power to emancipate all the slaves in the invaded territory." *Cong'l Globe*, 27th Cong. 1st sess., part 1, p. 429. Here is Lincoln's idea of the slave as a war asset.

ton, the work of Pelatiah Webster, Hamilton, Madison, and Wilson would have failed. After John Quincy Adams, Webster, and Clay had struggled in vain, Lincoln came to the front, and amid conditions he did not create, he succeeded. These great leaders caught the light that emanated from the minds of original thinkers, and mastered movements fraught with untold weal or woe, only to carry them forward to successful terminations. Their task was to make real in the affairs of government the thoughts of men. In this practical sense, Washington made actual the formation of the Union. In a no less practical sense, Lincoln made effective the maintenance of the Union. In leadership there is a strength of action which transcends originality of thinking. When the crisis is on, the supreme need is for men who can project thought into deed, and make concrete ideas that are big. These leaders were transcendent in their greatness because they acted.

Action in leadership to be effective is accompanied by another trait, that of *prudence*. And this trait both Washington and Lincoln possessed in a marked degree. For in making concrete the thoughts on government which won their assent, they were controlled by this spirit. It is not easy to define prudence in a man of big parts.

It is something more than caution and never the opposite of daring. It is finer than timidity and often an expression of courage. It as certainly belongs to statesmanship of the first rank as weight to substance. Edmund Burke says it is the finest trait of statesmanship. An analysis of prudence at its best indicates the presence of common sense. Robert Walpole was fond of saying that "a great prime minister was one who had more common sense than anyone else."¹ Tennyson, in measuring the substantial character of Wellington over against the dartling genius of Napoleon, has a fine line descriptive of his countryman, to the effect that he was "rich in saving common sense."²

But among the component parts of prudence is a sense of responsibility. Perhaps prudence may be described as common sense laden with responsibility. Because of this the statesman moves slowly. The crisis for him is the moment when the huge ship of state is moving with reduced speed and under perfect control through the winding channel. Smaller boats move more speedily and make the dock with less difficulty. But they carry less cargo and draw only a little water.

¹ Lecky, *History of England in 18th Century*, vol. v., p. 260.

² Tennyson's "Ode on the Death of the Duke of Wellington."

So with these great leaders. Their prudence which led them to move slowly was an expression of reserve strength. The safety of the mighty ship of state was at stake. One leader commanded the craft fresh from the stays as it slid into the water; the other, as it felt its way through the tortuous channel with ugly rocks near by. Each was called into command when prudence was required. For this they were severely criticised. Some mistook their slowness for hesitation. Others, in the grip of single ideas for immediately reforming the world, marvelled that progress was not more rapid. But later, these critics were forced to admit that they were mistaken. The refusal to give the bells for more speed was then understood to be the result of a deeper insight into conditions, and a more complete mastery of forces. They were strong enough to resist hasty action and brave enough to take needful action.

Lincoln gave a fine statement of this when, speaking to Governor Morgan at a critical moment, he said: "We are like whalers who have been on a long chase: we have at last got the harpoon into the monster but we must look how we steer, or with one flop of his tail he will send us all into eternity."¹

¹ Nicolay and Hay, *A History*, vol. x., p. 74. Paine in *The Crisis*, referring to Howe's troops in New Jersey, during the

But if prudence is the spirit which slows down the action because of the dangers involved, *expediency* is the quality of mind which guides the action amid the dangers. And this was another trait seen in the leadership of Washington and Lincoln. Expediency is as necessary as prudence in order that action in the supreme crisis may be effective. For the one who is controlled by prudence without being guided by expediency illustrates the old saying that "he who hesitates is lost." And the one who is guided by expediency without being controlled by prudence illustrates an equally old saying that "fools rush in where angels fear to tread." The pages of history are sprinkled with the failures of leaders who lacked one or the other quality.

And by expediency is meant simply the interpretation of experience by reason. The leader who is guided by expediency acts in the light of the experience as interpreted. The huge ship moves slowly and therefore is in action. Its

winter of 1777, says, "Like a wounded, disabled whale, they want only room and time to die in; and though in the agony of their exit, it may be unsafe to live within the flapping of their tail, yet every hour shortens their date, and lessens their power of mischief." *Writings of Paine*, Conway Ed., vol. i., p. 198. Is there here a suggestion that Lincoln was familiar with the writings of Paine? The writer does not recall another nautical illustration used by Lincoln.

speed is carefully measured, and this is prudence. But it moves slowly, with speed reduced, because the officer in command knows the channel, depth of water, danger of collision, power of momentum, dock to be reached, and this is expediency. And so it was with these great leaders. They possessed ideals of government, but they were toned on the shore of the real.

Because of the place which expediency occupied in their working philosophies of life, there are no enigmas. The prophetic instinct, in the usual meaning of the term, had no place in their public work. No one claims this quality for Washington. His giant form moved too slowly through vast stretches. Things never became vital for him until they took shape in the immediate foreground. But this has been claimed for Lincoln. It is said that his was a mystical nature, and the phantom ship of his dreams is mentioned. And further, his famous words about the "house divided against itself"¹ are quoted. But these words when placed with his others on slavery are seen to be exceptional. They need to be placed along with such words, for example, as those spoken in the debate with Douglas, to the effect that "he did not suppose that in the most peaceful way ultimate extinction

¹ *Works of Lincoln*, Nicolay and Hay Ed., vol. i., p. 240.

[referring to slavery] would occur in less than a hundred years at least."¹

Lincoln believed his task was to save the Union and not abolish slavery, even as Washington, in 1775, believed his task was to protest against unjust taxation without going the length of independence. But the Revolutionary leader in 1776 found that the one involved the other, and the Civil War leader in 1862 found that, to save the Union, slavery must be abolished.

However, expediency as a guide is not alien to the exercise of prophecy. In fact, used in the masterful way that Washington and Lincoln used it, expediency becomes the handmaid of prophecy in the larger sense. For then the past is interpreted, in the light of the present, for the welfare of the future. They may have lacked the strange gleam which illumines the details ahead, as the lightning on a dark night the rocks and trees of the valley. The claim cannot be made for Wash-

¹ *Ibid.*, p. 408. These words about "ultimate extinction," were spoken to break the force of his words about "the divided house." Lincoln's speech at Springfield, Ill., June 16, 1858, was his one most unfortunate utterance. It contained the words about "the divided house," and also the conspiracy of "Stephen, Franklin, Roger, and James." Douglas at once saw the opportunity and forced Lincoln to take a defensive attitude for some time. And it should be said to the credit of Douglas that Lincoln never offered any evidence to support his charge of conspiracy.

* June 17.

ington as for Sam Adams that he saw the end of the Revolution from the beginning. It cannot be claimed for Lincoln that he saw as far ahead on slavery as did William Lloyd Garrison. But if they lacked this strange gleam, they certainly possessed the discernment which enabled them to measure the forces of to-day by the conditions of yesterday. And the forces of to-day they saw reaching forth into the possibilities of to-morrow. This is prophecy in its most robust form. They are embodiments in history of the poet's words:

It is not wholly so to him who looks
In steadiness; who hath among least things
An under-sense of greatest; sees the parts
As parts, but with a feeling of the whole.¹

Guided by expediency, the stages in the development of each leader may be traced. Neither could have applied to his work the words which Napoleon spoke to Gourgaud at St. Helena, concerning his work in war, when he said: "War is a strange art. I have fought sixty battles, and I assure you that I have learned nothing from all of them that I did not know in the first. Look at Cæsar! he fights in the first battle as in the last."²

¹ Wordsworth, *The Prelude*, Book vii.

² Rosebery, *The Last Phase*, p. 210.

The American leaders learned by experience, because guided by expediency.

Curiously, with expediency as a guide, the growth of each was the reverse of the other. The first leader, though an American gentleman with English traditions of law and order, was in the Revolutionary days mildly radical, and in the Constitutional days, strongly conservative. The man who commanded the army, and listened in 1776 while standing on the site of the present City Hall in New York to the reading of the Declaration of Independence, is not the same man in his conceptions of government as the man who presided over the convention in the city of Philadelphia during the summer days of 1787. In the earlier period the emphasis was upon freedom, and in the later upon law.

The reverse was true of Lincoln. On the slavery question, as regards its political implications, he was a conservative who became a radical. The evidence for this is in a comparison of his public utterances in 1861 with those of 1865. Standing in the western portico of the capitol building about to take the oath, in the earlier period, he emphasises what the government should not do about slavery in the States. Standing in the eastern portico, in the later period, and about

to take the oath for the second time, he emphasises what the government shall do about slavery.

Though each changed, the factors in the process which wrought the change are easily seen. This is a fact of prime importance in seeking an explanation of their work in government. There is found in the career of each no break with his past. In this respect they differ from many great leaders in government. For example, Gladstone began his work a conservative and ended a liberal. Yet it is not possible to explain the change by saying, that he was guided by expediency, and, therefore, in the light of changing conditions, he changed. The change in his position was due to a mental revolution. At eighty-two he said, "I was brought up to distrust and dislike liberty, I learned to believe in it."¹ But not so with these leaders. Lincoln, writing in 1864, describes Washington as well as himself when he says: "I claim not to have controlled events, but confess plainly that events have controlled me. Now at the end of three years' struggle, the nation's condition is not what either party or any man desired or expected."² And this simply means that in action they were guided by expediency.

¹ Morley, *Life of Gladstone*, vol. iii., p. 475.

² *Works of Lincoln*, Nicolay and Hay Ed., vol. ii., p. 509.

Another trait of character possessed by Washington and Lincoln was that of essential *goodness*. In a study of leadership in government, it may seem a little unusual to call attention to a quality so commonplace, even though fundamental, as goodness. Historians evidently think so, for they either assume this goodness, or give to it only a passing notice. However, the writer is convinced that goodness explains in a large measure the commanding influence of these leaders. And because of this, the relation between them cannot be traced unless this quality is considered. Therefore, a more than passing notice will be taken of it.¹

Where the word "great" is used of the few exceptional leaders in government it has either of two meanings. It may mean the possession of some traits so in excess of those possessed by the ordinary man, as to cause all men to look with fear or admiration upon the one possessing them. Or it may mean the possession of traits in such perfect proportion, that the one possessing them, because he is normal, is great. The great man, in

¹ "There is no great share of probity necessary to support a monarchical or despotic government. The force of laws in one, and the prince's arm in the other, are sufficient to direct and maintain the whole. But in a popular state, one spring more is necessary, namely, virtue."—Montesquieu, *The Spirit of Laws*, Book iii., Section 3.

the first use of the word, startles the world. In the second use of the word, he wins the world.

The great man, in the first sense, lacks proportion. He may insist upon the concrete, be controlled by prudence, and accept expediency as a guide, but if he have only these, he will be as the huge ship without ballast. The great man, in the second use of the word, who is normal, and therefore supremely great because normal, adds to these three traits a fourth, namely, goodness. And this goodness acts as a steadying influence, which saves for the world results which otherwise might be lost.

A glance at leadership in history shows how true this is. The line of cleavage in great leadership is primarily moral. It is somewhat disturbing to discover that the question of goodness can be asked about some great men only with a smile. It can be asked about Frederick the Great, Napoleon, Robert Walpole, Disraeli, and Bismarck, only with a smile. It can be asked about Hamilton, Jefferson, Franklin, Webster, and Clay, only with a smile. But no one thinks of asking the question about Washington or Lincoln, for such a question is almost an insult to their memories. Their goodness is so apparent and inevitable that the question becomes superfluous. The fact is one of the silent yet potent assumptions of history.

Granting that these leaders were essentially good men, how did this goodness reveal itself in their work on government? Our answer is, it was shown in an elemental simplicity. There is a form of simplicity sometimes affected by leaders which is only on the surface. Washington, who happened to wear silver buckles on his shoes, doubtless was often amused at the carpet slippers worn by Jefferson. And probably Lincoln chuckled to himself, when he found that his great opponent Douglas had dropped the last letter from his name, in response to the more primitive conditions of society.¹ This was only harmless ostentation in simplified form.

And there is a genuine simplicity which has to do with the incidentals of external life. In this respect Washington was conventional and Lincoln was careless. The biographers think they have made quite a discovery if they find some intimate experience in which Washington forgot or Lincoln remembered the conventions in manners or speech. Of course this contrast must not be pushed too far, but it exists.

However, there is a simplicity that is elemental, and has to do with the roots of character. In this sense, both these leaders were simple men. Some

¹ Allen Johnson's, *Stephen A. Douglas*, p. 22.

one has said of Fénelon: "Half of him would be a great man and stand out more clearly as a great man, than does the whole, because it would be simpler."¹ And these words, so pregnant with meaning, explain the failure of some great men to attain the rank of supreme greatness. Sometimes this lack of simplicity is moral, again it is mental. Alexander Hamilton in sheer intellectual strength exerted in behalf of government is without a peer in our history. But it is this half of him that stands out more clearly as a great man. From a different standpoint, the career of Gladstone illustrates these words. He was a "great Christian," with a wide horizon, a deep passion for righteousness, and superb powers in action. But it is certain that he will just miss the rank of the supremely great, because of the absence at times of intellectual simplicity. Not so, however, with the two great American leaders. Their goodness is always a perfect blend of mental and moral simplicity. They are never infinitely great in one relation, and infinitesimally small in another.

Another answer is, there was an absolute sincerity in their goodness. This would follow from what has been said about their simplicity. It was

¹ Quoted by Morley and applied to Gladstone. See Morley's *Life of Gladstone*, vol. i., p. 184.

the absence of intellectual simplicity which gave some excuse for the charge that Gladstone was not sincere in the absolute sense. It was the absence of moral simplicity in Hamilton which involved an appearance for a time unlike the reality, which justified the suspicion of his enemies. But not so with Washington and Lincoln. Being elemental in their simplicity they are sincere in all their relations.

In the days when Rome was building its marble palaces, as the story goes, much trouble was experienced with dishonest contractors who used defective marble. A block would come from the quarry chipped. Knowing that it would rest well up in the wall, the temptation was strong to hide the defect and to use instead of reject the block. And so white wax the colour of the marble was used with such skill that the owner of the completed building, upon receiving it from the contractor, failed to detect it. However, in time the washing of the rains, the beating of the winds, and the flashing of the sunlight upon the wall would darken the wax, and cause the wall to appear blotched. In order to protect themselves against this imposition the nobles came together, and formed a sort of "gentleman's agreement," by which all contracts drawn for marble buildings

should in the future contain the clause, *sincere*—"without wax;" no fraud or imposition, but truth to standard. And so with these great leaders. The revelation of themselves in their work is as the piece of marble, massive in size, lines straight, corners square, and the surface true.

A further answer is, that goodness meant for them unselfish devotion. This is but another way of saying that they were patriotic. For patriotism in its virile sense is an expression of goodness. In a country whose institutions are democratic there is a tendency in the direction of self-consciousness which leads its citizens to think more of what their country owes them than what they owe their country. The citizen who is patriotic in the finer sense reverses the order and thinks more of what he owes his country.

A thinker who commands a wide reading has said: "In brief the people who have more rights than duties have gained a notable and distinguished ethical position in our modern world. The selfish we had always with us. But the divine right to be selfish was never more ingeniously defended in the name of the loftiest spiritual dignity than it is sometimes defended and illustrated to-day."¹ These are disturbing words, but quite

¹ Josiah Royce, *Loyalty*, p. 68.

as applicable to the days of Washington and Lincoln, as to the days since. And the veneration felt for these leaders is due in no small measure to the fact, that each had more duties than rights in a generation in which men had more rights than duties.

Self-interest was made subordinate when Washington emerged from his retirement at Mt. Vernon to preside over the convention in 1787. He had repaired his broken fortune and was again in affluent circumstances. Fame, as he believed, had done her utmost for him. There is not wanting evidence that he was fearful lest his fame might suffer, should he assume leadership in civil affairs. But in the States he discovered an undue emphasis upon rights, and so laying aside personal interests he came forward to stand for duties.

The same emphasis is found in the career of Lincoln. Read carefully his debate with Douglas, and the impression is made that while he may not have been superior to his opponent in the adroit handling of the points in the argument, yet he possessed a deeper and finer sense of moral duty. Compare, also, his leadership with that of the masterful Southern leadership. And again the impression is made, that however sincere the Southern leaders were in the arguments advanced,

their goodness just missed its finest expression, because of an undue emphasis upon rights.

"Whether it be right" is a nobler question for the leader in a democracy, than the other question, "What are our rights?" The one question does not necessarily contradict the other question. But only as the leader passes from the "rights" to the "right?" does he pass from the realm of self interest, into the loftier region of pure patriotism. And Washington and Lincoln did this.

Still another answer is that goodness for them was suffused with a tender spirit of charity. The moral philosophers state that charity, or better still, benevolence, is the basis of goodness. However, it may be asked, what has charity to do with a leader's work in government? There are two answers: One is, that through charity or the kindly spirit the leader broadens his conception of the meaning of government. Isaac Barrow, the profound writer of the 17th century, says: "Charity rendereth a man truly great, enlarging his mind into a vast circumference, and to a capacity nearly infinite; so that by it a general care doth reach all things, by an universal affection doth embrace and grace the world." The other answer is, that through charity, the leader establishes himself in the confidences of the people. Jeremy

Bentham, the utilitarian philosopher, in no danger of undue sentimentalism, says: "If you would gain mankind, the best way is to appear to love them, and the best way of appearing to love them, is to love them in reality." Washington and Lincoln may never have heard the words of Barrow or Bentham, but they practised them. And the student cannot go far in the study of their lives without feeling the glow of their kindly feeling for man. He may not feel it as readily in the life of the earlier leader, for he is farther removed and by nature was more reserved. But behind the somewhat haughty exterior beat a heart, big with love for man. Lincoln expressed this component part in the element of goodness when he said in the tender and beautiful words spoken as the storm died away: "With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan—to do all which may achieve and cherish a just and lasting peace among ourselves, and with all nations." And the same spirit of charity is found in Washington's Farewell Address, although the language is more conventional and less felici-

tous. "Father of his country," and "Father Abraham" are terms that mean something.

One more answer is that goodness as revealed in the work of these great leaders in government meant a deep faith in God. If the roots of their goodness were simplicity, sincerity, unselfishness, and charity, the soil in which these roots grew, was a deep faith in God. Reserve in the expression of his confidence of divine assistance becomes the leader of the nation, in the hour of its struggle. For then, the nation easily permits its conception of providence to degenerate into an unreasonable fatalism. Napoleon, watching the play of elemental forces in the thunder-storm on the eve of Waterloo exclaimed, "We are in accord!" These words were really an expression of egotism gone to seed. Victor Hugo in his famous description says, that "it had seemed to him that destiny, for which he had made an appointment for a certain day upon the field of Waterloo, was punctual."¹ However, destiny failed to keep the appointment. The faith of the Americans was far removed from such folly.

But, if they never were the victims of a consuming egotism neither did they reduce life to a mere rule of conduct. Jefferson's scrap-book con-

¹ Victor Hugo, *Les Misérables*, Part II., Book i., Chap. 7.

taining his "precious morsel of ethics,"¹ made by bringing together only the statements of Jesus in the Four Gospels that bear on conduct, would have had little interest for either Washington or Lincoln. Goodness for them was more than precepts for correct living. It is evident that in their thought morality was to religion as the bones are to a living body. The bones of morality they had—well formed, closely knit, and sound. For there are no two great leaders of history whose lives, as regards personal and public conduct, more successfully invite searching criticism. But in the supreme crisis of his life, as each faced the "exigencies of the Union," he passed from morality to religion. He probed beneath the surface of conduct and found faith. It will never be known to what extent the earlier leader, who went to the House of Prayer, or the later leader, who "read the story of Gethsemane on his knees"² was actually given strength. Neither will it ever be known how far reaching was the influence of this genuine faith in God as it was witnessed by the

¹ Thomas Jefferson, *The Life and Morals of Jesus of Nazareth*, p. 16.

² Tarbell, *Life of Lincoln*, vol. i., p. 406. "I have read upon my knees the story of Gethsemane, where the Son of God prayed in vain that the cup of bitterness might pass from Him. I am in the garden of Gethsemane now, and my cup of bitterness is full and overflowing."

people. Certainly the student lacks imagination, who can turn the pages of their recorded acts and thoughts, without finding this element of faith, which for the sake of historic accuracy cannot be ignored.

The word goodness then, as a quality inherent in the leadership of these great men, meant simplicity, sincerity, unselfishness, charity, and faith. It is as impossible to think of their work apart from goodness as thus defined, as to think of colour without atmosphere. And more than this, after ample allowance has been made for their other qualities, the one that dominates, or rather shines through them, as sunlight through the trees of a forest, is this commonplace quality of essential goodness.

And now having noted the qualities, which give to the leadership of each a four-square efficiency, there remains one more quality, that for the purpose of this study is fundamental, namely, the possession by each of an *imperial ideal*. And this ideal was also an expression of goodness. This does not mean that those who lacked this imperial vision, and saw the parts rather than the whole, were not good. But it does mean that this ideal so mastered the thinking of these leaders, that it became a distinct manifestation of their moral

natures. It was for the other, even as for the one, "the ever favourite object of my heart." And in this lies the real secret of the relation between them. For had they lacked this imperial ideal, even though they possessed the other qualities, the relation could not be established.

It is not known when or how this imperial ideal of government came to them. Napoleon tells us that one day on which in reading Bossuet's *Discourse on Universal History*, he read of Cæsar, Alexander, and the succession of empires, the veil of the temple was rent and he beheld the movement of the gods. And from that time on, in his campaigns in Egypt, Syria, and Germany, the vision never left him.¹ Neither Washington nor Lincoln has left any records of the conditions under which this splendid ideal of government came to them. Probably neither was ever conscious of the rending of a veil or the movement of gods. Their lives were too normal to afford much place for

The flashes struck from midnights;
The fire flames noon days kindle.²

Perhaps the only answer is, that being cast in the imperial moulds of such minds, the imperial ideal

¹ Rosebery, *Napoleon, The Last Phase*, p. 176.

² Browning, *Cristina*.

simply filled the minds. For nature can never be counted out in explaining great men. But it is known that the earlier leader was under the spell of the splendid vision when it was needed for the creation of the Union, and the later leader when it was needed for the maintenance of the Union. The one emerged from a war to form, and the other entered a war to preserve the Union. And neither was ever disloyal to his vision.

The imagination kindles as one is seen presiding over a convention that writes the Constitution for a composite empire. The great man says little, perhaps he has little to say. But in his very personality he is the embodiment of something imperial. Nothing small could be done by a group which he dominated. And the same is true of the other leader. The reader, as he turns the pages of their recorded thoughts, feels the uplift of the imperial, as a traveller, drawing near the ocean, catches the flavour of salt air.

But what was the imperial ideal which they saw? It certainly was something more than land and people. Other leaders in their eras saw these things and missed the imperial ideal. It was the form of government which they saw over the people dwelling on the land. They saw a government with power lodged at the centre, distinct

from and in addition to power in the parts; this power was expressed in law, derived from the people, who only could give sanction to the law, because alone the source of the power.

Beyond this it is not possible to go in establishing the relation. For while they were alike in their vision of imperial form, they differed somewhat in their ideas of the content of power.

And the explanation of this, as has been suggested in the preceding chapters, is not difficult to find. The one was an aristocrat and the other a democrat. This familiar contrast may be pushed too far, although it is impossible to ignore it, in a study of the work of these leaders in government. How far training is an influence which determines the attitude of a man in relation to the affairs of government, so that he becomes an aristocrat or a democrat, cannot be known. This attitude is certainly the result of something more than external circumstances. Washington was not an aristocrat because he owned a plantation and kept slaves. Jefferson had these things and was a democrat. Lincoln was not a democrat because he buried his axe in a tree or wore a linen duster. Roger Sherman was a shoemaker and became an aristocrat in government. There was something in the temper of the mind of each, which led the

one to become an aristocrat and the other a democrat.

They both subscribed to the political creed, that power as expressed in law is derived from the people. Yet the words did not mean exactly the same to each. Washington saw the people in the law; Lincoln saw the law in the people. The first leader believed in the divine right of government as derived from the people. The second leader believed in the divine right of the people expressed in government. The earlier leader never said, as did the later, that he owed all his political ideas to the Declaration of Independence.

But in addition to the temper of mind as an explanation of the difference in their understanding of power, there is a further and more important explanation, namely the fact of historic development. Lincoln was farther down the stream of the nation's life, and so the distance between the banks was greater, and the channel deeper. Power in government was as actual for the one as the other, but in 1861 there was more of it.

The expression of power of necessity meant more for the later leader. Power finds its expression in law, and the symbol of the law in the imperial sense is in the Federal Court. In 1787, such a court was an innovation, and needed time

in order to win its way. The first Chief Justice of the Supreme Court resigned because, as he wrote John Adams on January 2, 1801, "It would not obtain the energy, weight, and dignity, which was essential to its affording due support to the national government."¹ But following Jay, who seems momentarily to have lost hope, came Marshall whose mighty work reaching through thirty-four years consisted in establishing the supremacy of Federal law within the entire circle of its jurisdiction. The after-glow of Marshall, along with Story and Taney, was a positive asset at the disposal of Lincoln.

The source of power had a deeper meaning for the later leader. The recognition of power as derived from the people carries with it the right of the people to control the power. But it required the Democratic movement under the leadership of Jefferson, and later of Jackson, to make this clear. And along with this, although enunciated by thinkers having none too much confidence in the people, was the political truth of the indivisibility of power. Gleams of this truth emanated from the mind of James Wilson in 1787. But the prevailing view, and doubtless the one Washington accepted, was that the power was divisible between

¹ Pellew, *Life of Jay*, p. 339.

the Union formed by the States, and the States forming the Union.

Finally as to the abuse of power under government. The later leader appeared under conditions which made imperative another answer. The earlier leader disbelieved in slavery and tolerated it. The later leader began by tolerating it, and ended by leading the movement for its abolition. The water in the stream of the nation's life had, by 1861, gained such volume and headway that the awful obstruction in the channel was swept away.

As the study closes, it is in order to inquire whether by the method adopted and under the conditions laid down in the introductory chapter, the relation between Washington and Lincoln has been explained. The method adopted called for an examination of work rather than a description of workmen. The conditions laid down were three: The work selected for examination should be commensurate with the greatness of the workmen, that thus there might be given a revelation of their ample resources. The work examined as done by each should be sufficiently alike to make possible a comparison. And the law of historic development should be recognised.

In following the method, five periods of work in

government have been examined. Viewed as a whole, this work may be said to consist of building the arch of empire. In the period of 1763, through experiment, the ground was cleared. In the period of 1776 the excavations were made and the piers laid. In 1787, upon these piers the voussoirs forming the span were placed. In 1830, the voussoirs were pointed up. In 1861, the arch as a whole was buttressed. When the arch was built, Washington was the leader. Later, when the arch was reinforced, Lincoln was the leader. Surely the work examined was commensurate with the greatness of the workmen.

And certainly the work was sufficiently alike to make possible a comparison. For in addition to the fact that each was concerned with the arch, both had to deal with the problem of the keystone of power placed in the arch. And further, the likeness is emphasised by the fact that in dealing with the keystone these workmen had to answer the same questions as to its composition.

The time element has been reckoned with. For while each has worked upon the keystone in the arch, yet the nature of the work has differed, owing to the change in conditions. It was Washington's task to reject the British and hoist the American stone into place. It was Lincoln's task

to hold in place the stone as hoisted in 1787, and measured in 1830. Here is historic development.

It may be said then, that an examination of work in government, under the conditions laid down, shows that the relation between Washington and Lincoln is accentuated by similarity, and modified by difference. The similarity is seen in the fact that each had to do with the arch and the keystone. The difference in the fact, that one laid the arch including the keystone, and the other strengthened the arch and held the keystone in place.

But how was the work done by each? The examination made has not only disclosed the nature of the work, but revealed the skill of the workmen. And as the skill of each is compared with the other, it is seen that the relation between them is further accentuated or modified through similarity and difference. The relation is modified by the fact that Lincoln was superior to Washington in certain respects. He had a stronger mental grip on the philosophy of government. He excelled in the use of language for the expression of his thoughts on government. He handled men more adroitly for the ends of government. The relation is accentuated by the possession in common of certain fundamental traits, inherent in

supremely great leadership. They were men of action who insisted upon the concrete. Government for them was not in books but in organised society. The spirit of prudence controlled them in making concrete their thoughts. In thus making concrete under the control of prudence, they were guided by expediency. And to these three qualities was added a fourth, namely, the steadying influence of an essential goodness. Possessing these qualities in such splendid proportion they were lured on by the magnificent ideal of an imperial Union to which they were ever loyal. Therefore, Washington and Lincoln are related in government as they work on the arch of empire—the one building, the other maintaining—the one placing the keystone of power in the arch, the other struggling to keep it there. And on this keystone an inscription, subscribed to by both: *“A more perfect Union, existing for the people, because having power expressed through law, and coming from the people.”*

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